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J. F. Smith
1857

THE

MANUAL

OF

COSTS IN COUNTY COURTS,

CONTAINING

THE NEW TARIFF;

TOGETHER WITH

FORMS OF TAXED BILLS

AND

GENERAL POINTS OF PRACTICE.

BY

ROBERT A. HARRISON, Esq., B. C. L.,

BARRISTER AT LAW.

CAN
997.5 Q
HAR

TORONTO:
MACLEAR & CO., KING STREET EAST.
1857.

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ENTERED according to Act of the Provincial Legislature, in the year of our Lord One Thousand Eight Hundred and Fifty-seven, by ROBERT A. HARRISON, in the Office of the Registrar of the Province of Canada.

APR 8 1940
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PREFACE.

It is hoped this little work will be found to contain something useful to the practitioner. It is also hoped it will serve the purpose of facilitating a uniform practice in taxation, under the Table of Costs for the County Courts, recently issued by the Judges.

Little time has been afforded, for the display of labor in the following pages. It is, however, satisfactory to know that little is required. The Table is simple in arrangement, and easily understood,—that is to say—so far as such matter can be simplified by general rules. Many things, however simple in themselves, are not free from difficulty in their application. To prepare a bill of costs with a tariff of fees at hand, on first impression seems a very easy task—one that needs little thought, little experience. Though simple in theory, those who put the theory into practice, must acknowledge the existence of some difficulty. To lessen the difficulty, whether great or small, by the exhibition of bills under the Common Law Procedure Act 1856, that have been taxed by the Taxing Officers at Toronto, and by the collection of some practical points in relation to costs, is the object of this little volume.

On comparing the Table of Costs just issued for the County Courts, with the Table issued in 1856 for the Superior Courts, it will be found that both have been framed on the same principles, and that the arrangement of both is the same. The real difference between them consists almost wholly in the *amount* of costs to be allowed in the respective Courts. The practice of the Superior Courts having been extended to the County Courts, and the principle declared, that, in matters not expressly provided for, the practice of the County Courts should conform to that of the Superior Courts, it was plainly a wise

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course, to give to the Courts Tables of Costs common as respects subject matter.

With regard to the Table of Costs framed for County Courts, little need be said. Various interests are affected by the charges which it introduces. It appears, so far as possible, to mete out justice to all. By the Act of last Session, the Schedule of Costs to the Attorney, established by the Act of 1845 was, after 1st July 1857, repealed. It therefore became necessary at once to give a new Tariff of Costs, as respects the Profession. The fees to officers of the Courts were retained until altered by the Judges in the manner which has just been done. The provisions made by the New Tariff supersede all existing provisions. Henceforth the costs and fees mentioned therein, "and no other or greater shall be allowed in taxation or taken or received by any Counsel, Attorney, Sheriff, Coroner, or Officer" for business done in County Courts. It will be further seen that business falling under what has been termed "The Collateral duties of the County Judge" has been made the subject of provision. The fees allowed in ordinary suits, "so far as the same are applicable," are claimable for such business.

The fees payable to Clerks for the Fee Fund are not affected by the New Tariff, and will continue to be payable as heretofore.

The bills given in the following pages are copied from originals now in the Courts at Osgoode Hall, and have been chosen by the Editor and approved by the Taxing Officers of the Courts as being suitable and reliable examples of what bills ought to be when correctly prepared. There is not of course an example for every possible emergency, for such could not be expected in a work of this kind. The examples given are general and may with modifications be applied to all cases of ordinary occurrence. The items allowed are fixed with reference to the Tariff of the Superior Courts. This cannot mislead, but rather instruct the Practitioner or County Clerk who will bestow upon the bill before him a moderate share of attention. The advantage of the examples in their present shape is that for Superior and Inferior Courts alike, they serve as guides for the purposes of taxation. With few exceptions the Clerks of County Courts in Upper Canada are also Deputy Clerks of the Crown.

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To John Small, Esq, John W. Dempsey, Esq, and other gentlemen in the principal offices of the Superior Courts at Toronto, to whom application was made for information, and by whom it was readily and cheerfully given, the Editor desires to express his best acknowledgements.

The "General Points of Practice" are brought together in a manner the most convenient for reference, and therefore it is presumed in the form most useful in practice. The natural order of an action at law, from its commencement to its conclusion, has been followed as closely as circumstances would permit. The word "Master" as used in the reported cases, has been retained rather than "County Courts Clerk" or "Taxing Officer," or other expressions perhaps more appropriate, but less convenient. The points given have been selected as containing principles applicable to County Courts as well as to Superior Courts under the Tariffs now established. But the Editor has not weighed the cases in a light exclusively adapted to County Courts—though it is believed little if any modification will be found necessary in their application.

With these explanations "The Manual of Costs in County Courts" is submitted to the Profession both in Town and Country and to Clerks and other Officers of Courts to all of whom it is offered in a form which, though humble in pretension, may improve upon acquaintance.

QUEEN STREET WEST,
July 4, 1857.

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ORDER.

WHEREAS it is provided by the "County Courts Amendment Act, 1857," amongst other things, that it shall be lawful for the Judges of the Superior Courts of Common Law at Toronto, or any three of them, (of whom one of the Chief Justices shall be one,) to frame a Table of Costs for the several County Courts in Upper Canada, and from time to time to ascertain, declare, determine, and adjudge, all and singular the fees which shall and may be allowed to be taken by Counsel and Attorney, Sheriffs, Coroners, and officers of the said Courts respectively, as well in matters, causes, and proceedings depending in the said Courts as before the Judges thereof, in all actions and proceedings within the jurisdiction of such County Courts, or of the Judges thereof.

And that the Judges so framing or altering such Table may associate with them, in framing or altering such Table of Costs, any one of the County Court Judges already appointed, or who may hereafter be appointed, under and in pursuance of the power and provision contained and set forth in the tenth section of the "Upper Canada Division Courts Extension Act of 1853."

And whereas the Chief Justice of Upper Canada and the Judges of the Superior Courts of Common Law, at Toronto, have assumed the duties so provided for, and in the exercise of the powers given as aforesaid, associated James Robert Gowan, Judge of the County Court of the County of Simcoe, with them in the performance thereof.

In pursuance, therefore, of the powers contained in the said "County Courts Amendment Act, 1857," the following Table of Costs for the said several County Courts has been framed by the said Chief Justice and Judges, and it is determined, declared, and

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adjudged, that all and singular the costs and fees mentioned in the said Table, and no other or greater, shall be allowed in taxation, or taken, or received, by any Counsel or Attorney, Sheriff, Coroner, or officer, respectively, in the said County Courts, for any business by them, respectively, to be done or transacted in the said County Courts, or before the Judges thereof.

JNO. B. ROBINSON, C. J.
A. McLEAN, J.
ROBERT E. BURNS, J.
WM. B. RICHARDS, J.
JOHN H. HAGARTY, J.
JAS. ROBT. GOWAN, Co. J.

TORONTO, 2nd July, 1857.

TABLE OF COSTS.

GENERAL ALLOWANCE FOR PLAINTIFFS AND DEFENDANTS, AS WELL BETWEEN ATTORNEY AND CLIENT, AS BETWEEN PARTY AND PARTY.

TO THE ATTORNEY.

WRITS.

	£	s.	d.
Summons, including attendance	0	5	0
Concurrent Summons	0	3	9
Renewed Summons	0	3	9
Capias	0	5	0
Concurrent Capias	0	3	9
Renewed Capias	0	3	9
Capias ad Satisfaciendum	0	5	0
Renewed Capias ad Satisfaciendum	0	3	9
Capias ad Satisfaciendum for the residue	0	5	0
Renewed do. do.	0	3	9
Fieri Facias	0	5	0

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	£	s.	d.
Renewed Fieri Facias	0	3	9
Concurrent Fieri Facias	0	3	9
Fieri Facias for the residue	0	5	0
Renewed do. do.	0	3	9
Special Endorsement of demand of Writ of Summons	0	3	9
Writ of Revivor	0	5	0
Subpœna ad testificandum	0	2	6
Subpœna duces tecum	0	3	9
(and if above four folios, additional per folio, 6d.)			
Attachment against Goods of Absconding Debtor	0	5	0
Attachment against Garnishee	0	5	0
Venditioni exponas	0	5	0
Supersedeas	0	3	0
All other Writs necessary	0	5	0

NOTE.—The above allowances include all charges for attendance for the Writ, and delivering it to the officer.

COPY AND SERVICE OF WRITS OF SUMMONS AND OTHER PROCESS.

For each Copy, including copies of all notices required to be endorsed	0	2	6
Service of each copy of Writ, if not done by the Sheriff, or an officer employed by him, when taxable to the Attorney	0	1	3
Mileage per mile, for the distance actually and necessarily travelled	0	0	6

INSTRUCTIONS.

Taking Instructions to sue or defend	0	5	0
Instructions for pleading:			
Instructions for Special Affidavits, when allowed by the Clerk, and instructing Counsel on Special matters	0	2	6
Do. to Counsel in common matters	0	1	3
NOTE.—No Fee allowed for instructions to Counsel, when such Counsel is Attorney in the suit, or his partner.			
Instructions for Brief	0	2	6
Do. for any suggestion	0	2	6
Do. for issue of fact by consent	0	3	9
Do. for suggestion to revive, or for writ of revivor, when no rule necessary	0	2	6
Do. for rule for writ of revivor when necessary	0	2	6

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	£	s.	d.
Instructions to defend for Executor after suggestion of death of original defendant	0	2	6
Do. for agreement of damages	0	2	6

DRAWING PLEADINGS, &c.

Declaration, inclusive of Instructions and Engrossing, and of attendance to file or serve, but not inclusive of copies to serve	0	6	3
If above ten folios, for every folio above ten, in addition	0	1	0
One or more Pleas, if three folios or under, exclusive of instructions, but inclusive of engrossing, and copies to serve.	0	2	6
If above three folios, for every folio in addition, exclusive of copy to serve	0	1	0
Joinder of Issue, inclusive of copies and engrossing	0	1	3
Demurrer, inclusive of engrossing, and copy to serve	0	2	6
Joinder of Demurrer, inclusive of copies and engrossing	0	1	3
Marginal statement of matters of Law for argument, exclusive of copy for the Judge	0	2	6
Replications, new Assignments, and other Pleadings, the same as the foregoing charges for Pleas.			
Postea, including engrossing	0	2	6
Judgment, whether by default or final	0	2	6
Authority to receive Moneys out of Court	0	1	3
Suggestions, Pleas to Suggestions, and subsequent Pleadings of three folios or under, inclusive of engrossment and copies	0	2	0
If above three folios, for every folio drawing and engrossing.	0	1	0
Issue for the trial of facts by agreement, for every folio	0	1	0
Special Case, per folio	0	1	0
Drawing interrogatories, or answers for any purpose required by Law, including engrossing, per folio	0	1	0
Agreement of Damages, and copy	0	2	6
Special particulars of demand, or set off, including copy, per folio	0	1	0
Short ditto and copy	0	2	6
Bill of Costs, and copy for taxation	0	2	6
Copy for the opposite party	0	1	3
Taking Cognovit, and entering Judgment thereon, when there has been no previous proceeding	2	0	0
Drawing and Engrossing Cognovit, and attending execution, where there have been previous proceedings	0	2	6

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	£	s.	d.
Replication, accepting money out of Court, in full of demands, inclusive of instructions	0	2	6
Drawing Bond on appeal	0	10	0

NOTE.—In all the above items Engrossing included, unless separately allowed for.

COPIES.

Declarations, when not exceeding ten folios	0	3	9
Do. above ten folios, per folio	0	0	6
Other pleadings, before enumerated, above three folios, per folio	0	0	6
Issue, (Pleadings) if ten folios or under	0	5	0
If above ten folios, for every folio	0	0	6
All Proceedings, Interrogatories, Answers, and other papers, of which copies are to be delivered, per folio	0	0	6
Judgment for non-appearance on specially Endorsed Writs, or Writs of Revivor, to be taken as nine folios, including the Writ.			

NOTICE.

To declare, reply, and subsequent pleadings, copy and service	0	1	3
By defendant to bring issue to trial, copy and service	0	2	6
To Executor or Administrator of sole Defendant deceased, to appear to writ and suggestion	0	2	6
Of appearance, when appearance duly entered, and notice given on the day of appearance, but not otherwise	0	1	3
Of appearance to Writ of Revivor	0	1	3
To Plead	0	1	3
Of Declaration, when necessary, copy and service	0	1	3
Of objection for mis-joinder or non-joinder of plaintiff, copy and service	0	1	3
To Sheriff to discharge a prisoner out of custody, copy and service	0	2	6
Of trial and assessment, copy and service	0	2	6
Demand of residence of Plaintiff and all other common notices, copy, and service	0	1	3
To admit or produce copy and service	0	2	6

NOTE.—Copy and Service included in the above items, when not otherwise expressed.

COPY AND SERVICE.

Of special and common rule	0	2	0

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	£	s.	d.
Of special rule, above three folios, per folio additional.....	0	0	6
Of summons or order of a Judge.....	0	1	3
Of order to charge a prisoner in execution.....	0	2	6

Mileage on services, as on a writ of summons.

ATTENDANCES, &c.

Attendances at Judges' Chambers, at the Clerk's Office, and all other common attendances in the course of a cause.....	0	1	3
Fee on every Record	0	2	6
Fee on every Rule of Court, or Judge's order.....	0	2	6
Attending Sittings for the Trial of Issues in fact if cause entered, where no fee is charged by the Attorney as Counsel	0	2	6
Attendance on Clerk on special matters	0	2	6
For every hour after the first.....	0	2	6
Taxation of Costs on Postea	0	2	6
Of Costs of Cause, otherwise than on Postea.....	0	1	3
Of Interlocutory matters	0	1	3

BRIEFS.

For Drawing (of original matter)	0	5	0
Copies of Pleadings, or Documents when required, per folio,	0	0	6

TERM FEES.

Term Fee, after Declaration filed	0	2	6
Every necsssary Letter on the business of the cause.....	0	1	3

AFFIDAVITS.

Drawing Special Affidavits, per folio, including engrossing...	0	1	0
Copies of Affidavits, when necessary, per folio	0	0	6
Common Affidavit of five folios or under, including copy and oath	0	3	6

DEFENDANTS.

Drawing Bail Piece.....	0	4	0
Entering appearance	0	2	6
For each additional Defendant	0	0	6

NOTE.—A second summons, and order for time to plead, shall be allowed in special cases when necessary.

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COUNSEL FEES.

	£	s.	d.
Fee on Motion of Course, or on Motion for Rule Nisi, or on Motion to make Rule Absolute in matters not special	0	5	0
On special motion for Rule Nisi	0	10	0
To attend Reference to Clerk, where Counsel necessary	0	10	0
For Argument on supporting or opposing Rule, on return of Rule Nisi, or Argument of Demurrer, or special case	1	5	0
Fee with Brief on Assessment	0	10	0
Fee with Brief at Trial, in actions of a special and important nature	1	10	0
NOTE.—To be increased by the Judge to such sum as shall appear to him proper under the circumstances of the case, not exceeding £3 10s.			
Fee with Brief, in other cases	0	15	0

Fee to Counsel on argument or examination in chambers, to be allowed by the Judge at the time when he considers the attendance of Counsel necessary, not less than 5s., nor more than 15s.

In all applications and proceedings before the County Judges, not relating to suits instituted in any Court of Civil Judicature, there shall be payable to the Attorney and Counsel the same fees as in the foregoing Table, so far as the same are applicable.—(*Vide* 21 *Sec. Co. Courts Pro. Act* 1856).

FEES

TO BE TAKEN AND RECEIVED BY THE CLERKS OF THE SEVERAL COUNTY COURTS, IN ADDITION TO ALL FEES PAYABLE FOR AND FORMING PART OF THE GENERAL FEE FUND FOR THE COUNTY COURTS.

Every writ	0	1	3
Every Concurrent, Alias, Pluries, or Renewed Writ	0	1	3
Every Appearance entered, and filing Memorandum thereof,	0	0	6
Every Appearance, each Defendant after the first.....	0	0	4
Filing every Affidavit, Writ, or other proceeding	0	0	4
Amending every writ or other proceeding	0	1	3
Every ordinary Rule	0	1	0
Every special Rule, when prepared by the Clerk	0	2	0
Every Judgment by Default	0	1	3
Every Final Judgment, otherwise than Judgment by Default	0	2	6
Taxing every Bill of Costs, and giving allocatur	0	3	4

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	£	s.	d.
Every Reference, Inquiry, Examination, or other special matter referred to the Clerk, for every meeting not exceeding one hour	0	2	6
Do. do. for every additional hour, or less	0	2	6
For every Report made by the Clerk upon such reference, &c., where a report shall be required	0	5	0
Upon Payment of Money into Court, for every sum under £50	0	5	0
Do. £50 and over	0	10	0
Every Certificate made evidence by Law, or required by the practice, including any necessary search	0	2	6
Exemplication, or Office Copy of Proceedings, per folio	0	0	6
Every Search, if not more than one year	0	0	6
Every Search exceeding one year, and not more than two years	0	1	0
Every Search exceeding two years, or a General Search	0	2	6
Every Affidavit, Affirmation, &c., taken before them	0	1	0
Entering Satisfaction on Record, and Filing Satisfaction piece, including any necessary search	0	1	3
Every Commission for the Examination of Witnesses	0	2	6
Entering Exoneretur on Bail piece	0	1	0
For making the Entry required in the Debt Attachment Book and in Cognovit book, each	0	2	6
Every Record entered in the Sittings Docket	0	1	3
Every Verdict taken, Non-suit, or Jury discharged	0	2	6
Every Rule or Order of Reference at the Trial	0	2	0
Drawing Appointment made by Judge (if drawn by the Clerk)	0	1	0
For Judge's Summons or Fiat	0	1	0
Judge's Order	0	2	0
Each Quarterly Account rendered by him to the proper Officer to be paid out of the Fee Fund	1	0	0
For every other Account of Fees received, made and rendered on a legal requisition to be paid out of the Fee Fund	0	10	0
For attending at every Special Hearing before the Judge under the 10th Section of the County Courts Procedure Act, 1856, and at taking Examinations and Evidence, and at Sittings on reference to the County Judge from the Superior Courts not exceeding one hour	0	1	3
For every additional hour or less	0	1	3

In all applications and proceedings before the County Judges not relating to Suits instituted in any Court of *Civil* Judicature, there shall be payable to the Clerks the same Fees as in the foregoing Table, so far as the same are applicable. (*Vide* 21*st Sec. County Courts Procedure Act*, 1856.)

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SHERIFF.

	£	s.	d.
Every Warrant to execute any process, mesne or final, when given to a Bailiff	0	1	3
Arrest, when amount endorsed does not exceed £50	0	5	0
Do. do. over £50	0	10	0
Mileage, going to arrest, when arrest made, per mile	0	0	6
Do. conveying party arrested from place of arrest to the Gaol, per mile	0	0	6
Bail Bond, or Bond for the Limits	0	2	6
Assignment of the same	0	1	3
Service of Process, not bailable, scire facias, or writ of revivor, (including Affidavit of Service), each Defendent	0	3	9
For each Summoner on Writ of scire facias, to be paid by the Sheriff	0	2	6
Serving Subpœna, Declaration, Notices, or other papers, besides mileage (for each party served)	0	1	3
Receiving, Filing, Entering, and endorsing all Writs, Declarations, Rules, Notices, or other papers to be served each	0	0	6
Return of all Process and Writs (except Supœnas and executions)	0	1	3
Every search, not being by a party to a cause or his Attorney	0	1	0
Certificate of Result of Search, when required	0	2	6
Every Jury sworn	0	4	0
Poundage on Executions, and on Attachments in the nature of Executions, upon the sum actually made in the £	0	1	0
Schedule of Goods taken in Execution, includiug copy to Defendant, if not exceeding five folios	0	2	6
Each folio above five	0	0	6
The sum actually disbursed for advertisements, required by law to be inserted in the official *Gazette* or other newspaper.			
Drawing up advertisements, when required by law to be published in the official *Gazette* or other newspaper, and transmitting the same, in each suit	0	2	6
Every Notice of Sale of Goods in each suit	0	1	3
Every Notice of Postponement of Sale on Execution, in each suit	0	1	0
Actual mileage from the Court House to the place where service of any process paper or proceeding is made, per mile, necessarily travelled	0	0	6
Seizing Estate and Effects, on attachment against an absconding Debtor	0	5	0

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	£	s.	d.
Every Inventory to be charged as on Executions			
Removing or Retaining Property, reasonable and necessary disbursements and allowances to be made by the Clerk, or by order of the Judge.			
Bond to Secure Goods taken under an Attachment, under sec. 50, of the Common Law Procedure Act, 1856, (applied to County Courts,) if prepared by the Sheriff.....	0	5	0

IN REPLEVIN.

Precept to Bailiff.....	0	1	3
Notice for Service on Defendant.....	0	1	3
Delivering Goods to the party obtaining the Writ.....	0	5	0
For Writ, &c., de rotorno habendo.....	0	2	6
Replevin Bond, when not prepared by the Attorney.....	0	2	6

CORONERS.

For Services required to be rendered by them, in civil proceedings, the same fees as are by this table allowed to the Sheriff.

CRIER.

Calling and Swearing Jury.....	0	2	0
Do. Plaintiff on non-suit.....	0	0	6
Swearing each Witness or Constable.....	0	0	6

JURORS, WHERE NOT SPECIALLY PROVIDED FOR BY STATUTE.

Jurors, when not paid by the County; every cause, each Juror.....	0	0	7½

ALLOWANCE TO WITNESSES.

To Witnesses, residing within three miles of the Court House, *per diem*,.....	0	3	9
To Witnesses residing over three miles from the Court House	0	5	0
Barristers and Attorneys, Physicians and Surgeons, when called upon to give evidence, in consequence of any professional service rendered by them, or to give professional opinions, *per diem*	1	0	0

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	£	s.	d.
Engineers and Surveyors, when called upon to give evidence of any professional service, rendered by them, or to give evidence depending upon their skill or judgement, *per diem*	1	0	0

If the Witnesses attend in one cause only, they will be entitled to the full allowance. If they attend in more than one cause, they will be entitled to a proportionate part in each cause only.

The travelling expenses of Witnesses, over ten miles, shall be allowed, according to the sums reasonably and actually paid, but in no case shall exceed one shilling per mile, one way.

COMMISSIONER.

For taking every Affidavit	0	1	0
Taking every Recognizance of Bail	0	1	6

JNO. B. ROBINSON, C. J.
A. McLEAN, J.
ROBERT E. BURNS, J.
WM. B. RICHARDS, J.
JOHN H. HAGARTY. J.
JAS. ROBT. GOWAN, Co. J.

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TAXED BILLS,

EXHIBITING

PLAINTIFFS' AND DEFENDANTS' COSTS

ON ORDINARY PROCEEDINGS,

IN

THE SUPERIOR COURTS,

AS WELL INTERLOCUTORY AS FINAL.

1.—*Plaintiff's Costs on Verdict.*

£	s.	d.		FEES. £	s.	d.	DISBTS. £	s.	d.
			Instructions to sue, 10s.; notice, 2s. 6d. ...	0	12	6	0	0	0
0	2	6	Atending post Office, 2s. 6d.	0	2	6	0	0	0
			Writ and attendance, 10s.; endorsement, 5s.	0	15	0	0	0	0
			Paid for writ, 8s. 9d.; copy, 5s. ...	0	5	0	0	3	9
0	0	6	Attending Sheriff for same, 2s. 6d.; paid postage, 1s. 6d.	0	2	6	0	1	6
0	3	2	Paid Sheriff, 8s. 9d.; attending to file writ, 2s. 6d.; paid, 8d.	0	2	6	0	9	5
			Attending to search for appearance, 2s. 6d.; paid, 6d.	0	2	6	0	0	6
0	5	0	Drawing declaration, 15s.; copy of declaration, 12s. 6d.	1	7	6	0	0	0
0	3	2	Paid filing, 8d.; service of declaration, 2s. 6d.	0	2	6	0	0	8
0	1	3	Notice to plead, 2s. 6.; copy, 1s. 3d. ...	0	3	9	0	0	0
			Attending to examine pleas, 2s. 6d.; paid, 6d.	0	2	6	0	0	6
			Drawing Joinder of issue, 2s. 6d.; copy of issue, 2s. 6d.	0	5	0	0	0	0
			Attending to file, 2s. 6d.; paid, 4d. ...	0	2	6	0	0	4
			Attending to serve, 2s. 6d.; drawing issue book, 7s. 6d.	0	10	0	0	0	0
0	7	6	Copy, 7s. 6d.; attending to serve issue book, 2s. 6d...	0	10	0	0	0	0
			Notice to produce copy and service 2s. 6d	0	2	6	0	0	0
			Notice of examination copy and service, ... 2s. 6d.	0	2	6	0	0	0
			Notice to admit copy and service, 2s. 6d. ...	0	2	6	0	0	0
			Drawing record, 7s. 6d.; attending to record, 2s. 6d.	0	10	0	0	0	0
1	8	1	Carried over, ...	6	8	9	0	16	8

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£ s. d.		FEES. £ s. d.	DISB'TS. £ s. d.
1 3 1	Brought forward, ...	6 3 9	0 16 8
	Fee thereon, 5s.; paid Jury fee, 15s.; paid clerk 5s....	0 5 0	1 0 0
	Paid Sheriff, 5s.; instructions for brief, 5s.	0 5 0	0 5 0
	Attending Counsel with, 2s. 6d.; paid postage, 1s. 8d.	0 2 6	0 1 8
	Fee to first Counsel, £10 0s. 0d.; or to second Counsel, £7 10s. 0d.	0 0 0	17 10 0
0 1 3	Brief, 10s.; attending for subpœna, 5s.; paid, 3s. 9d.	0 15 0	0 3 9
	8 copies, 40s.; service of the above copies, 20s.	3 0 0	0 0 0
	Affidavit of service 5s.; mileage 122 miles.	6 7 0	0 0 0
0 1 3	Attending for subpœna duces te cum, 6s. 3d.; paid, 3s. 9d....	0 6 3	0 3 9
	2 copies, 15s.; service of both copies, 5s ...	1 0 0	0 0 0
	Affidavit of service, 5s.; paid postage, 1s. 6d.	0 5 0	0 1 6
	Letter to clients before trial, 2s. 6.; postage, 3d....	0 2 6	0 0 3
	Attending for record, 2s. 6d.; paid crier, 12s. 6d.	0 2 6	0 12 6
	Drawing postea, 5s.; judgment roll, 12s. 6d.	0 17 6	0 0 0
0 2 6	Attending to enter judgment, ...	0 2 6	0 0 0
	Fee on judgment, 2s. 6d.; Bill, 5s. ...	0 7 6	0 0 0
0 5 0	Copy, 5s.; service, 2s. 6d.	0 7 6	0 0 0
0 2 6	Notice of taxation, 2s. 6d.; service, 2s. 6d.	0 5 0	0 0 0
	Fee on taxation, 5s.	0 5 0	0 0 0
	Affidavit of disbursements, 5s.	0 5 0	0 0 0
0 2 6	Letter to client to make said affidavit, 2s. 6d.	0 2 6	0 0 0
0 0 3	Postage, 3d.; term fee, 5s.	0 5 0	0 0 3
1 18 4		£21 12 0	20 15 4
	Disbursements.....	20 15 4	
		42 7 4	
	Paid taxing officers fees, and witnesses per affidavit of disbursements	29 15 6	
		72 2 10	
	Less.....	1 18 4	
		£70 4 6	

2.—*Plaintiff's Costs in an action on a Note—Writ of Trial—and Verdict for Plaintiff.*

	Instructions, 7s. 6d.; Letter, 2s. 6d. ...	0 10 0	0 0 0
	Attending for Summons, 1s. 3d.; paid, 3s. ... 9d.; fee, 5s.	0 6 3	0 3 9
	2 copies, 2s.	0 2 0	0 0 0
	Attending Sheriff with and for 2s. 6d.; Post, 1s.	0 2 6	0 1 0
	Carried over, ...	1 0 9	0 4 9

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£ s. d.		FEES. £ s. d.	DISBT'S. £ s. d.
	Brought forward, ...	1 0 9	0 4 9
	Paid him 44s. 9d.; Letter with 2s. 6d.; Post, 1s.	0 2 6	2 5 3
	Attending search for appearance, 1s. 3d. ...	0 1 3	0 0 0
	Common Bail, 2s. 6d.; attending to enter, 1s. 3d.; paid, 3s. 2d.	0 3 9	0 3 2
	Declaration, 12s. 6d.; paid filing, 4d. ...	0 12 6	0 0 4
	2 copies, 12s. 6d.; 2 notices to plead, 5s.	0 17 6	0 0 0
	Attending Sheriff with and for, 2s. 6d.; post, 2s.	0 2 6	0 2 0
	Paid him, 36s. 6d.	0 0 0	1 16 6
	Letter with, 2s. 6d.; post, 6d.	0 2 6	0 0 6
	Affidavit of do., 5s, ...	0 5 0	0 0 0
	Attending to search pleas, 2s. 6d.; paid, 6d.	0 2 6	0 0 6
	Joinder of issue, 2s. 6d.; attending to file, 2s. 6d.; paid, 4d.	0 5 0	0 0 4
	Service, 2s. 6d.	0 2 6	0 0 0
	Affidavit for Summons for writ of Trial, 5s.	0 5 0	0 0 0
	Attending for Summons, 2s. 6d.; paid, 1s. 7d.	0 2 6	0 1 7
	Copy and service, 2s. 6d.	0 2 6	0 0 0
	Affidavit, 5s.	0 5 0	0 0 0
	Attending for order, 2s. 6d.; paid, 3s. 2d.	0 2 6	0 3 2
	Fee on, 5s.	0 5 0	0 0 0
	Copy and service, 2s. 6d.	0 2 6	0 0 0
	Writ of Trial, 7s. 6d.	0 7 6	0 0 0
	Attending and passing, 5s.; paid, 6s. 7d.	0 5 0	0 6 7
0 5 0	Fee on, 5s.	0 5 0	0 0 0
	Attending to enter, 1s.; paid, 10s. ...	0 1 0	0 10 0
	Notice to admit, 2s. 6d.	0 2 6	0 0 0
	Affidavit, 3s. 6d.	0 3 6	0 0 0
	Notice of Trial, 3s. 6d.	0 3 6	0 0 0
	Notice to examine Defendant, 2s. 6d. ...	0 2 6	0 0 0
	Attending when notes admitted, 1s. ...	0 1 0	0 0 0
	Attending Court at Trial, 1s.	0 1 0	0 0 0
	Brief and Free, 30s.	1 10 0	0 0 0
	Paid Sheriff, Crierk and Clerk, 16s. 7d. ...	0 0 0	0 16 7
	Postea 5s., ...	0 5 0	0 0 0
	Attending Judge for Signature, 1s. ...	0 1 0	0 0 0
0 2 6	Order for immediate execution, 2s. 6d. ...	0 2 6	0 0 0
0 2 6	Roll, 7s. 6d.	0 7 6	0 0 0
0 2 6	Attending to enter, 2s. 6d.	0 2 6	0 0 0
	Fee, 2s. 6d.	0 2 6	0 0 0
	Bill and copy, 5s.; attending taxation, 5s.; term fee, 5s.	0 15 0	0 0 0
0 12 6		£10 1 9	6 11 3
		6 11 3	
		16 13 0	
	Less	0 12 6	
		16 0 6	
	Master.....	0 13 2	
		£16 13 8	

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3.—*Plaintiff's Costs on Verdict in an action on a recognizance of Bail.*

£	s.	d.		FEES. £	s.	d.	DISB'TS. £	s.	d.
			Instructions, 10s.	0	10	0	0	0	0
			Letter, 2s. 6d.	0	2	6	0	0	0
0	2	6	Drawing recognizance Roll, 7s. 6d. ...	0	7	6	0	0	0
			Attending to enter 2s. 6d.; paid, 7s. 6d. ...	0	2	6	0	7	6
			Fee on Entering, 2s. 6d.	0	2	6	0	0	0
			Attending for writ and fee, 10s.; paid, 3s. 9d.	0	10	0	0	3	9
			Copy of writ, 5s.	0	5	0	0	0	0
0	2	6	Attending Sheriff with and for return 5s. ...	0	5	0	0	0	0
			Paid Sheriff, 26s. 9d.	0	0	0	1	6	9
0	5	0	Affidavit, 5s.	0	5	0	0	0	0
			Attending to search, appearance, 2s. 6d.; paid, 6d.	0	2	6	0	0	6
			Drawing declaration, 12s. 6d.	0	12	6	0	0	0
0	6	3	Copies, 12s. 6d.	0	12	6	0	0	0
0	2	6	Attending to get revised and return, 5s. ...	0	5	0	0	0	0
			Paid revising fee, 10s.	0	10	0	0	0	0
0	2	6	Attending to file, 2s. 6d.; paid, 4d. ...	0	2	6	0	0	4
			Attending to serve, 2s. 6d.	0	2	6	0	0	0
			Notice to plead, 2s. 6d.	0	2	6	0	0	0
			Attending to see plea, 2s. 6d.; paid, 6d. ...	0	2	6	0	0	6
			Replication, 5s.	0	5	0	0	0	0
0	5	0	Copies, 5s.	0	5	0	0	0	0
0	0	6	Attending to file, 2s. 6d.; paid, 10d. ...	0	2	6	0	0	10
			Attending to serve, 2s. 6d.	0	2	6	0	0	0
0	2	6	Record, 10s.	0	10	0	0	0	0
0	5	0	Fee on, 10s.	0	10	0	0	0	0
			Attending to enter, 2s. 6d.; paid, 20s. ...	0	2	6	1	0	0
0	5	0	Instructions for Brief, 10s.	0	10	0	0	0	0
0	2	6	Brief, 10s.	0	10	0	0	0	0
			Paid Counsel, ...	0	0	0	5	0	0
			Paid Sheriff, 5s.	0	0	0	0	5	0
			Paid Crier, 2s. 6d.	0	0	0	0	2	6
			Attending to order exemplification of recognisance of, 2s. 6d.	0	2	6	0	0	0
			Paid for, 2s. 6d.	0	2	6	0	0	0
			Attending for, when made out, 2s. 6d. ...	0	2	6	0	0	0
			Attending to argue, Rule Nisi, 2s. 6d. ...	0	2	6	0	0	0
2	10	0	Paid Counsel, 150s.	0	0	0	7	10	0
			Attending to hear judgment, 2s. 6d. ...	0	2	6	0	0	0
			Attending for Rule, 2s. 6d.	0	2	6	0	0	0
			Paid for Rule, 2s. 6d.	0	0	0	0	2	6
			Fee on Rule, 5s.	0	5	0	0	0	0
			Copy and serving, 3s. 9d.	0	3	9	0	0	0
			Bill of costs	0	5	0	0	0	0
			Copy to serve, 2s. 6d.	0	2	6	0	0	0
0	2	6	Attending to serve, 2s. 6d.	0	2	6	0	0	0
			Attending taxation, 2s. 6d.	0	2	6	0	0	0
			Fee on taxation, 2s. 6d.	0	2	6	0	0	0
4	14	3	Carried over, ...	9	18	9	16	0	2

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£ s. d.		FEES. £ s. d.	DISB'TS. £ s. d.
4 14 3	Brought forward, ...	9 18 9	16 0 2
	Fee on entering judgment, 2s. 6d. ...	0 2 6	0 0 0
	Attending for Record, 2s. 6d.	0 2 6	0 0 0
	Paid for record, 2s. 6d.	0 0 0	0 2 6
	Term fees, 10s.	0 10 0	0 0 0
	Postea, 5s.	0 5 0	0 0 0
	Judgment Roll, ...	0 10 0	0 0 0
	Notice of taxation, 2s. 6d.	0 2 6	0 0 0
0 2 6	Attending Court for order for Counsel fee, 2s. 6d.	0 2 6	0 0 0
0 5 0	Paid for 2s. 6d.; fee, 5s.	0 5 0	0 2 6
5 3 9		£11 18 9	16 5 2
		16 5 2	
		28 3 11	
	Less	5 3 9	
		23 0 2	
	Master	0 18 8	
		23 18 10	

4.—*Plaintiff's Costs on moving an Attachment against his Attorney for non-payment of money.*

0 5 0	Instructions to move rule nisi, 10s.;	0 10 0
	Drawing demand, 2s. 6d.; serving, 2s. 6d; affidavit, 3s. 6d.	0 8 6
0 1 0	Drawing affidavit to move rule nisi, 5s.; commissioner 1s.	0 6 0
	Attending Court to move, 2s. 6d.: paid counsel, 25s. ...	1 7 6
	Attending for rule nisi, 2s. 6d.; fee, 5s.; paid, 3s. 10d.; copy, 1s.	0 12 4
	Attending Sheriff, 2s. 6d.; return, 2s. 6d.; paid, 12 miles, and service, 10s. 6d.	0 15 6
0 5 0	Affidavit, 3s. 6.; Brief to move rule nisi, absolute, 10s.	0 1 6
1 5 0	Attending counsel, 2s. 6d.; paid him, 50s.; attending for...	2 12 6
	Rule, 2s. 6d,; fee, 5s.; paid, 2s. 10d.;	0 10 4
	Bill, 5s.; service, 3s. 9d.	0 8 9
1 16 0		£7 6 11
	Less	1 16 0
		5 10 11
	Master	0 3 4
		£5 14 8

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5.—*Plaintiff's Costs on Verdict in an action against an Absconding Debtor.*

£	s.	d.		FEES. £	s.	d.	DISB'TS. £	s.	d.
0	2	6	Instructions and letter of Notice, ...	0	12	6	0	0	0
			Plaintiff's affidavit for attachment, (5 fo.) paid and oath, ...	0	5	0	0	1	0
			2 Corrobatory affidavits, ...	0	5	0	0	2	0
			Attending for order for attachment and paid,	0	2	6	0	2	6
0	5	0	Fee thereon, ...	0	5	0	0	0	0
			Attending for attachment and paid, ...	0	1	3	0	4	9
			Fee thereon, ...	0	5	0	0	0	0
			Endorsing and attending Sheriff with, ...	0	3	9	0	0	0
0	2	3	The Sheriff having found one A. B. in possession of part of the property attached, and refusing to give same up, thereupon drawing his bailiff's affidavit to get order to attach, (6 fo.) 6s.; attending to swear, 1s. 3d.; paid, 1s.	0	7	3	0	1	0
			Attending to swear, 1s. 3d.; paid, 1s. ...						
			Drawing plaintiff's affidavit and oath, ...	0	5	0	0	1	0
0	0	8	Moving for summons for attachment and paid, ...	0	2	6	0	2	7
			Copy to serve, ...	0	1	0	0	0	0
			Attending sheriff with to serve, and for return, ...	0	2	6	0	0	0
			Paid for service, 2s. 6d.; and 38 miles mileage, 19s.	0	0	0	1	1	6
			Affidavit of service, ...	0	2	6	0	1	0
			Moving for order and paid, ...	0	2	6	0	3	2
			Fee thereon and copy, and service on defendant's attorney, ...	0	7	6	0	0	0
			Copy to serve on A. B. and attending sheriff with	0	2	3	0	0	0
			Attending return from sheriff, and paid him his fees, ...	0	1	3	0	7	3
0	2	6	Drawing long special affidavit of service, &c., (6 fo.) and oath, ...	0	6	0	0	1	0
0	2	6	Attending on receiving summons to set aside order against A. B. and instructions from plaintiff to oppose, ...	0	2	6	0	0	0
			Drawing plaintiff's affidavit, (8 fo.) and oath, ...	0	8	0	0	1	0
			Drawing affidavit and oath, (6 fo.) ...	0	6	0	0	1	0
			Fee on opposing summons, (same discharged,)	0	10	0	0	0	0
			Attending for judgment thereon next day,	0	2	6	0	0	0
			Having received instructions as to mortgage being held by one C. D. in favor of defendant, letter to him thereon, ...	0	2	6	0	0	0
			Attending sheriff, instructing him to notify C. D.	0	1	3	0	0	0
0	15	5	Carried over, ...	5	11	0	2	10	9

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£	s.	d.		FEES. £	s.	d.	DISB'TS. £	s.	d.
0	15	5	Brought forward, ...	5	11	0	2	10	9
0	1	3	Attending for attachment from sheriff, ...	0	1	3	0	0	0
			Issuing duplicate to sheriff of Grey, and paid,	0	1	3	0	3	9
			Fee thereon and endorsing it, ...	0	7	6	0	0	0
			Forwarding it to sheriff, and for return and postage, ...	0	2	6	0	1	0
0	15	0	Paid sheriff's fees, ...	0	0	0	0	18	9
			Attending return of attachment from sheriff of York and Peel, and paid fees, ...	0	2	6	6	6	3
			Drawing plaintiff's affidavit for order for leave to proceed (4 fo.) and oath, ...	0	5	0	0	0	0
0	1	0	Moving for order and fee thereon and paid,	0	7	6	0	3	6
			Attending to file same and paid, ...	0	2	6	0	1	0
			Copy to serve of order and service, ...	0	2	6	0	0	0
			Issuing summons and paid, ...	0	10	0	0	3	9
0	5	0	Endorsing same, ...	0	5	0	0	0	0
			Four copies of same, ...	1	0	0	0	0	0
			Attending sheriff with a copy of order and giving special instructions, ...	0	5	0	0	0	0
			Attending for return from sheriff, and paid his fees, ...	0	2	6	2	2	9
			Sticking copy up in Crown Office, ...	0	2	6	0	0	0
			Affidavit thereof, ...	0	5	0	0	0	0
0	2	0	Long and special affidavit of service by sheriff's officer, ...	0	10	0	0	0	0
			Attending to file same and summons and paid	0	2	6	0	1	4
0	1	0	Drawing declaration and copies to file and serve, (12 fo.)	1	5	0	0	0	0
0	10	0	Fee on revising same, ...	0	10	0	0	0	0
			Attending to file and paid, ...	0	2	6	0	0	4
			Notice to plead, ...	0	2	6	0	0	0
0	2	6	Attending to serve, ...	0	2	6	0	0	0
			Searching plea and paid	0	2	6	0	0	6
			Interlocutory judgment and entering and paid	0	5	0	0	3	6
0	1	0	Notice to admit and service, ...	0	3	6	0	0	0
			Notice of assessment and service, ...	0	3	6	0	0	0
			Affidavit of service of declaration filed with interlocutory judgment, ...	0	5	0	0	0	0
0	2	6	Drawing issue book and attending to serve it, (15 fo.)	0	10	0	0	0	0
			Drawing record and fee thereon, ...	0	12	6	0	0	0
			Copy particulars annexed to record, ...	0	2	6	0	0	0
			Attending to enter record and paid, ...	0	2	6	1	0	0
			Instructions for and drawing brief, ...	0	15	0	0	0	0
			Counsel fee, ...	2	10	0	0	0	0
			Paid sheriff 5s.; and crier, (4 witnesses,) 6s. 6d.	0	0	0	0	11	6
			Attending for record, ...	0	2	6	0	0	0
			Drawing postea, ...	0	5	0	0	0	0
			Drawing Roll, (20 fo.)	0	10	0	0	0	0
			Entering judgment and fee, ...	0	5	0	0	0	0
0	2	6	Judgment, ...	0	2	6	0	0	0
2	19	2	Carried over, ...	19	5	6	14	8	8

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£ s. d.		FEES. £ s. d.	DISB'TS. £ s. d.
2 19 2	Brought forward, ...	19 5 6	14 8 8
	Drawing bill of costs, and a copy for taxation,	0 5 0	0 0 0
	Copy and attending to serve, ...	0 5 0	0 0 0
	Notice of taxation and service, ...	0 2 6	0 0 0
	Term fees, ...	0 10 0	0 0 0
0 5 0	Attending to enter judgment, ...	0 5 0	0 0 0
	Attending to pay mileage and affidavit thereof, ...	0 7 6	0 0 0
3 4 2	Fees, ...	£21 0 6	14 8 8
	Disbursements, ...	14 8 8	
	Total, ...	35 9 2	
	Less, ...	3 4 2	
		32 5 0	
	Master, ...	0 13 2	
		32 18 2	

6.—*Plaintiff's Costs in an action on promises against two Defendants,—Summons specially endorsed,—and judgment by default.*

	Instructions, ...	0 10 0	0 0 0
	Letters.	0 5 0	0 0 0
	Summons and paid.	0 10 0	0 ~~3~~ 5 5.82
	Special indorsement.	0 5 0	0 0 0
	Copies	0 10 0	0 0 0
	~~Copies of indorsement.~~	0 5 0	0 0 0
	~~Attending to serve, A. B.~~	0 2 6	0 0 0
	~~Do. do. C. D.~~ ...	0 2 6	0 0 0
	Affidavit of ~~service~~	0 5 0	0 0 0
	Attending to see if appearance by A B. and paid	0 2 6	0 0 6
	~~Do. do. C. D. and paid~~ ...	0 2 6	0 0 6
	Judgment Roll....	0 5 0	0 0 0
	Bill. 2/6	0 5 0	0 0 0
	Attendance to tax. 1/3	0 2 6	0 0 0
	Fee on taxation. 1/3	0 5 0	0 0 0
	Attending to enter Judgment. 1/3. ...	0 2 6	0 0 0
	~~Taxing costs.~~	0 2 6	0 0 0
	Fee. 2/6	0 5 0	0 0 0
		£4 7 6	0 4 9
		0 4 9	
		4 12 8	
	Less, ...	0 13 0	
		3 19 8	
	Master.....	0 13 2	
		£4 12 5	

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*7.—*Plaintiff's Costs on discharging rule Nisi for Judgment as in case of Nonsuit.*

£	s.	d.		FEES. £	s.	d.
			Rule Nisi for Judgment as in case, attending to transmit			
0	1	6	and paid postage, ...	0	1	9
0	2	6	Instructions to oppose, ...	0	5	0
			Drawing affidavit (10 fol.) and paid, ...	0	11	0
0	1	6	Attending to transmit same and paid postage, ...	0	2	3
1	5	0	Fee on argument, ...	2	10	0
			Paid filing affidavit, ...	0	0	4
			Term fee, ...	0	5	0
			(Rule enlarged to Trinity,			
			Trinity term, 20th Victoria,)			
			Drawing 2 additional affidavits, ...	0	10	0
0	2	6	Attending to transmit to Agent and paid postage, ...	0	3	6
			Paid filing affidavits.	0	0	8
			Letter therewith, ...	0	2	6
0	15	0	Counsel fee, ...	1	5	0
			Rule, further enlarge to Michaelmas term,			
			Atttending to advice and letter, and postage, ...	0	5	6
			Term fee, ...	0	5	0
			(Michaelmas term,)			
			Counsel fee on argument, ...	1	5	0
			Term fee, ...	0	5	0
0	2	9	Letter to principal and paid postage, ...	0	5	6
			(Judgment reserved to Hilary,)			
			Attending for judgment, ...	0	2	6
			(Rule discharged,)			
			Letter, advising principal and postage, ...	0	5	6
			Attending for rule and paid, ...	0	3	9
			Fee on rule, ...	0	5	0
			Copy and service, ...	0	3	9
0	5	0	Affidavit of service, ...	0	5	0
0	3	2	Attending to file and paid, ...	0	3	2
			Term fee, (Hilary)	0	5	0
			Bill of costs and copy, ...	0	5	0
			Copy for opposite party, ...	0	2	6
0	2	6	Attending to deliver, ...	0	2	6
0	1	3	Notice of taxation copy and service, ...	0	3	9
0	2	6	Attending taxation, ...	0	5	0
0	3	8	Paid for allocutur and filing bill, ...	0	3	8
			Increase counsel fee, ...	1	5	0
3	8	10		£12	4	1
			Less, ...	3	8	10
				8	15	3
			Master, ...	0	3	8
				£8	18	11

* It ought to be mentioned that the taxing officers prefer double columns—one for Fees, the other for Disbursements.

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8.—*Plaintiff's Costs of a second trial when new trial granted to Defendant.*

£	s.	d.		FEES. £	s.	d.
			Attending for record, ...	0	2	6
0	2	6	Attending to have venire changed, ...	0	2	6
0	2	6	Paid, ...	0	2	6
0	5	0	Fee on Judge's order, ...	0	5	0
			Notice of trial copy, &c., ...	0	3	6
0	2	6	Notice to examine copy, &c., ...	0	2	6
			Fee on refreshing brief, ...	0	5	0
			Attending to enter record and paid, ...	1	2	6
			Fee on record, ...	0	5	0
0	2	6	Attending Counsel with brief and fee, ...	5	2	6
2	10	0	2nd Counsel, ...	2	10	0
			Affidavit of Disbursements, ...	0	5	0
			Copy, ...	0	2	6
			Bill of costs and copy, ...	0	5	0
			Copy to serve, ...	0	2	6
0	2	6	Attending to serve, ...	0	2	6
			Attending taxation, ...	0	2	6
1	2	6	Amount as per affidavit of disbursements, ...	4	15	0
				£15	18	6
			Less, ...	4	10	0
4	10	0		11	8	6
			Master, ...	0	3	8
				11	12	2
			Attending for appointment and fee, ...	0	3	6
			Copy and service, ...	0	2	6
				£11	18	2
			Add Counsel fee, ...	2	10	0
				£14	8	2

9.—*Plaintiff's Costs of first trial when new trial granted to Defendant on payment of Costs.*

			Notice of Trial, ...	0	3	6
0	2	6	Attending to serve, ...	0	2	6
0	3	6	Affidavit and paid Commissioner, ...	0	3	6
			Notice to appear, ...	0	2	6
0	2	6	Attending to serve, ...	0	2	6
0	3	6	Affidavit and paid Commissioner, ...	0	3	6
0	12	0	Carried over, ...	0	18	0

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£	s.	d.		FEES. £	s.	d.
0	12	0	Brought forward, ...	0	18	0
0	4	6	Issue Books and Record, ...	1	2	6
			Attending to serve, ...	0	2	6
			Attending to enter Record, ...			
			Paid Sheriff, 15s.; Clerk, 5s.	1	0	0
			Having received notice for Plaintiff to appear, notice of his residence, ...	0	2	6
0	2	6	Attending to serve, ...	0	2	6
0	5	0	Affidavit of Service and paid oath, ...	0	5	0
0	2	6	Attending Court, ...	0	2	6
			Instructions for Brief, ...	0	5	0
			Brief, ...	0	7	6
			Counsel fee at trial, ...	3	15	0
			Paid Sheriff, 5s.; Crier, 2s.; filing, 8d.;	0	7	8
0	2	6	Attending for Verdict, ...	0	2	6
			Michaelmas Term.			
			Attending for record, ...	0	2	6
			Having received rule nisi attending to examine affidavits and papers, and paid, ...	0	2	6
			Copies and Affidavits, ...	0	7	6
			Letter to Principal, ...	0	2	6
0	3	0	Attending to forward and post, ...	0	3	0
			Affidavit to oppose, ...	0	7	6
0	1	6	Attending Commissioner and paid Commissioner, ...	0	3	6
			Instructions for brief to Counsel, to agent and brief, ...	0	5	0
0	2	6	Attending Counsel, ...	0	2	6
			Attending to oppose Rule and paid Counsel, ...	2	12	6
			Attending for Judgment, ...	0	2	6
			Term Fee, ...	0	5	0
			Letter to Agents with affidavits and post, ...	0	3	0
0	2	6	Attending to forward, ...	0	2	6
0	2	6	Having received Rule absolute, Letter to Principal, ...	0	2	6
			Attending to forward postage, ...	0	5	6
0	2	6	Having received Notice taxation, letter to Principal advising, ...	0	2	6
			Attending to forward postage, ...	0	5	6
			Bill, 5s.; Copy, 2s. 6d.;	0	7	6
0	2	6	Attending to serve, ...	0	2	6
			Attending taxation, ...	0	2	6
			Attending for Record and paid, ...	0	5	0
			Attending to forward to principal Postage, ...	0	0	6
			Attending to forward Bills to agent at Toronto post, ...	0	3	0
			Affidavit of A. B.	0	5	0
			Attending additional taxation, ...	0	2	6
			Term Fee, ...	0	5	0
2	6	0		£16	4	8
			Less, ...	2	6	0
			Costs, ...	13	18	8
			Master.....	0	3	8
				£14	2	4

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10.—*Plaintiff's Costs on discharging summons to set aside a writ of Capias.*

£	s.	d.		FEES. £	s.	d.
0	7	6	Instructions.	0	10	0
0	2	6	Attending, examine writ in Sheriff's hands.	0	2	6
			Affidavit.	0	5	0
0	2	6	Attending to write agent.	0	2	6
			Letter.	0	2	6
			Paid postage.	0	1	0
			Attending to move for summons.	0	2	6
			Paid.	0	1	11
			Copy.	0	1	0
			Attending to Court.	0	2	6
			Affidavit of summons.	0	5	0
			Attending return of summons.	0	2	6
0	2	6	Attending advise principal.	0	2	6
			Letter.	0	2	6
			Postage...	0	0	3
			Attending again on return...	0	2	6
0	2	6	Advise principal.	0	2	6
0	2	6	Letter....	0	2	6
			Attending to argue, 2s. 6d.	0	2	6
			Attending for judgement, 2s. 6d.	0	2	6
			Letter to principal.	0	2	6
0	2	6	Letter from principal.	0	2	6
0	2	6	Answer...	0	2	6
0	2	6	Having received notice of taxation attending, 2s. 6. ...	0	2	6
0	2	6	Letter to principal.	0	2	6
			Drawing bill of costs.	0	5	0
			Letters therewith, 2s. 6d.; attending taxation, 2s. 6d ...	0	5	0
1	10	0		£3	19	2
			Less	1	10	0
				2	9	2
				0	3	8
				£2	12	10

11.—*Plaintiff's Costs on an award in his favor made under an order of reference.*

0	1	6	Instructions, 10s.; Letter of notice, 2s. 6d.	0	12	6
0	2	6	Attending to post, 2s. 6d.; attending for writ and issuing, 10s.	0	12	6
			Copy, 5s.; paid, 3s. 9d.; special endorsements, 5s. ...	0	18	9
			Paid postage on forwarding to Sheriff, ...	0	1	0
			Attending for return, 2s. 6d.; Sheriff's fees, 9s. 9d. ...	0	12	3
0	4	0	Carried over, ...	2	17	0

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£	s.	d.		FEES. £	s.	d.
0	4	0	Brought forward, ...	2	17	0
0	1	0	Attending to see if appearance, 2s. 6d.; paid, 6d. ...	0	3	0
0	15	0	Drawing declaration, 12s. 6d.; copies, 6s. 3d. ...	0	18	9
			Paid filing, 4d.; notice to plead, 2s. 6d.	0	2	10
			Attending to serve, 2s. 5d.; attending to file, pleas examined, ...	0	5	0
			Paid, 6d.; drew replication, 5s.; attending to file, 2s. 6d.; paid 4d.	0	8	4
			Attending to serve, 2s. 6d.; Issue Book, 7s. 6d. ...	0	10	0
			Attend'g to serve, 2s. 6d.; copy, pleadings and particulars of, ...	0	2	6
0	2	6	Claim to move to refer, ...	0	3	0
0	1	0	Affidavit to move, 4s. 6d.; Commissioner, 1s. ...	0	5	6
			Attending for summons, 2s. 6d.; paid, and filings, 2s. 3d.	0	4	9
0	2	6	Copy, 2s. 6d.; attending to serve, 2s. 6d.; affidavit of service, and Commissioner, 5s.	0	10	0
			Attending to enlarge, 2s. 6d.; attending for order, 2s. 6d.	0	5	0
			Paid, and filings, 3s. 6d.; copy, service, 2s. 6d.; attending to serve, 2s. 6d.	0	8	6
			Fee on, 5s.; attending arbitrator for affidavit, 2s. 6d.; notice, copy and service, 2s. 6d.	0	10	0
			Attending to serve, 2s. 6d.; attending for another affidavit, 2s. 6d.	0	5	0
			Notice, copy and service, 2s. 6d.; attending to serve, 2s. 6d.	0	5	0
			Attending for enlargement to 19th Dec., 2s. 6d.; attend'g further enlargement to 22nd Dec., 2s. 6d. ...	0	5	0
			Attending when time endorsed on order of reference, enlargement, ...	0	2	6
0	5	0	Affidavit for enlargement, 5s.; Commissioner, 1s.; instsuctions for brief before Arbitrators, ...	0	11	0
			Brief, 15s.; fee, 50s.; attending for award, 2s. 6d.; affidavit of execution, ...	3	12	6
			Paid Arbitrators' fees, 75s.; attending for receipt, 2s. 6d.	3	17	6
			Copy, award and affidavit, &c., 4s.; Commissioner, 1s.	0	5	0
			Attending for order to make submission a Rule of Court,	0	2	6
			P'd, and filings, 3s. 2d.; fee on order, 5s.; attend'g for Rule 2s. 6d.	0	10	8
0	2	6	Paid, and filings, 2s. 10d.; fee, 5s.; copy and service, 5s.; attending to serve, 2s. 6d.	0	14	1
			Attending for appointment to tax, 2s. 6d.; paid, 1s. ...	0	3	6
			Copy and service, 2s. 6d.; attending to serve, 2s. 6d. ...	0	5	0
0	2	6	Bill of Costs, 5s.; copy for taxation, 5s.	0	10	0
0	5	0	Copy for opposite party, 2s. 6d.; attending to serve, 2s. 6d.	0	5	0
			Attending to tax costs, 2s. 6d.; term fees, 10s. ...	0	12	6
2	1	0		20	0	11
			Less.....	2	1	0
				17	19	11
			Master.....	0	3	8
				18	3	7

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12.—*Plaintiff's Costs on attachment against a Sheriff for not returning a writ.*

£	s.	d.		FEES. £	s.	d.
0	2	6	Letter to Sheriff, requesting return of writ, 2s. 6d., ...	0	2	6
			Attending to search for return.	0	3	0
0	0	11	Attending for rule and paid.	0	5	0
			Copy and service	0	3	9
0	0	3	Letter to agent at residince of Sheriff with instructions to serve, and paid postage	0	3	0
			Fee on rule.	0	5	0
			Affidavit of service and paid.	0	6	6
			Letter from agent with rule served and paid postage. ...	0	3	0
			Attending to search for return and paid.	0	3	0
			Affidavit of search and paid.	0	6	0
			Term Fee.	0	5	0
0	3	0	Letter to agent with instructions to move summons and paid postage...	0	3	6
0	2	6	Attending for summons and paid	0	4	5
			Attending to transmit same.	0	2	6
			Letter therewith and paid postage	0	3	0
0	3	0	Letter to agent with instruction to serve and paid postage.	0	3	0
			Copy and service....	0	3	9
			Affidavit of service and paid.	0	6	0
			Letter returninig, same served and paid postage. ...	0	3	0
			Letter to agent with instructions to move summons absolute and paid postage....	0	3	0
			Attending Chambers for order	0	2	6
			Paid, ...	0	3	2
			Fee on order	0	5	0
0	2	10	Attending to file same, and paid	0	2	10
0	4	1	Attending for attachment and paid, ...	0	6	7
			Fee thereon, ...	0	5	0
			Bill of costs and copy, ...	0	5	0
			Attending taxation, ...	0	2	6
0	8	8	Paid for allocatur and filing Bill, ...	0	3	8
			Letter to principal with writ and paid postage, ...	0	3	0
1	2	9		5	17	8
			Less	1	2	9
				4	14	11
			Master	0	3	8
				4	18	7

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13.—*Defendant's Costs on Verdict where several pleas pleaded with leave.*

£	s.	d.		FEES. £	s.	d.	DISB'TS. £	s.	d.
			Instructions, ...	0	10	0	0	0	0
			Paid postage on writs, ...	0	0	0	0	0	6
			Attending to examine writ and precipe, ...	0	2	6	0	0	0
			Appearance, ...	0	2	6	0	0	0
			Paid, ...	0	0	0	0	1	6
0	5	0	Instructions to draw pleas, ...	0	5	0	0	0	0
			Draft pleas (several), ...	0	5	0	0	0	0
			Copy to serve with summons for leave to plead	0	5	0	0	0	0
			Attending to move summons, and paid, ...	0	2	6	0	1	11
			Copy and service, ...	0	2	6	0	0	0
			Attending to examine declaration, & paid ...	0	2	6	0	0	6
			Affidavit, ...	0	5	0	0	0	0
			Attending to serve copy of pleas, ...	0	2	6	0	0	0
			Attending to move summons absolute, and argue, ...	0	2	6	0	0	0
			Attending to hear judgment (not given), attending again, 2s 6d, ...	0	5	0	0	0	0
			Attending for order, and paid, ...	0	2	6	0	3	2
			Fee, ...	0	5	0	0	0	0
			Copy and service, ...	0	2	6	0	0	0
			Copies of pleas, ...	0	5	0	0	0	0
			Attending file and paid, ...	0	2	6	0	0	4
			Attending to serve, ...	0	2	6	0	0	0
			Notice to reply, ...	0	2	6	0	0	0
			Attending to examine replication, and paid,	0	2	6	0	0	6
			(Received notice of trial), letter to defendant's attorney, ...	0	2	6	0	0	0
			Attending to bespeak copy of judgment of Court, ...	0	2	6	0	0	0
			Attending to bespeak exemplification of judgment, ...	0	2	6	0	0	0
			Attending to get do., 2s 6d, paid 5s 6d, ...	0	2	6	0	5	6
			Attending to bespeak copies of affidavits,	0	2	6	0	0	0
			Paid postage on receiving papers from defendants, ...	0	0	0	0	0	6
			Attending to see if record entered, ...	0	2	6	0	0	0
			Letter to defendants that case is "No. 66,"	0	2	6	0	0	0
0	2	6	Attending to telegraph witness, and paid ...	0	2	6	0	2	6
0	5	0	Two attendances to see Judge regarding judgment, ...	0	5	0	0	0	0
			Attending to move summons, and paid, ...	0	2	6	0	1	11
			Paid telegraph to witness, ...	0	0	0	0	2	6
0	5	0	Attorney attending Court, ...	0	5	0	0	0	0
			Instructions for brief, ...	0	5	0	0	0	0
			Brief for first counsel (72 folios), ...	1	16	0	0	0	0
			Attending him with	0	2	6	0	0	0
2	10	0	Paid him fee, ...	0	0	0	7	10	0
0	2	6	Wrote and telegraphed defendants, ...	0	5	0	0	0	0
3	10	0	Carried over, ...	8	0	6	8	11	4

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£	s.	d.		£	s.	d.	FEES. £	s.	d.
3	10	0	Brought forward, ...	8	0	6	8	11	4
			Copy of one for second counsel, ...	0	10	0	0	0	0
			Attending second counsel with brief, ...	0	2	6	0	0	0
			Paid second counsel, ...	0	0	0	5	0	0
			Attending for subpœna, and paid, ...	0	5	0	0	2	6
			Three tickets and service, ...	0	15	0	0	0	0
0	5	0	Affidavit of service of subpœna, ...	0	5	0	0	0	0
0	5	0	Instructions to draw affidavit of disbursements, ...	0	5	0	0	0	0
			Drawing same (7 folios), ...	0	7	0	0	0	0
			Letter and paid postage, ...	0	2	6	0	0	6
0	2	6	Attending for return and paid postage, ...	0	2	6	0	0	6
			Attending commissioner, and paid, ...	0	2	6	0	1	0
			Paid witnesses, ...	0	0	0	17	10	0
			Attending for record, ...	0	2	6	0	0	0
			Postea, ...	0	5	0	0	0	0
0	1	6	Roll (judgment), ...	0	7	6	0	0	0
			Attending to enter	0	2	6	0	0	0
			Fee on, ...	0	2	6	0	0	0
			Bill, ...	0	5	0	0	0	0
			Copy, ...	0	2	6	0	0	0
			Attending to serve, ...	0	2	6	0	0	0
			Notice of taxation, ...	0	2	6	0	0	0
			Attending taxation and fee, ...	0	5	0	0	0	0
			Term fees, ...	0	10	0	0	0	0
4	4	0		13	5	0	31	5	10
				31	5	10			
				44	10	10			
			Less	4	4	0			
				40	6	10			
			Master	0	13	2			
				41	0	0			

14.—*Defendant's Costs on Judgment of Non pros.*

£	s.	d.		£	s.	d.	FEES. £	s.	d.	DISB'TS. £	s.	d.
			Instructions to Defend, ...	0	10	0	0	0	0			
			Attending to examine process, and paid ...	0	2	6	0	1	0			
0	1	0	Appearance and filing, paid	0	7	6	0	2	0			
			Attending to examine declaration, filed and paid	0	2	6	0	0	0			
1	0	0	Pleas and copies, ...	1	10	0	0	1	0			
			Attending to file and serve and paid ...	0	5	0	0	0	0			
			Notice to reply, ...	0	2	6	0	1	0			
			Attending to see if replication filed, ...	0	2	6	0	0	0			
0	3	0	Judgment roll, ...	0	7	6	0	1	0			
1	4	0	Carried over, ...	3	10	0	0	6	0			

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£	s.	d.		FEES. £	s.	d.	DISB'TS. £	s.	d.
1	4	0	Brought forward, ...	3	10	0	0	6	0
0	7	6	Fee on, ...	0	10	0	0	0	0
			Term fee, ...	0	5	0	0	0	0
			Bill, ...	0	5	0	0	0	0
			Attending to enter judgment	0	2	6	0	0	0
0	2	6	Fee on taxation, ...	0	5	0	0	0	0
1	14	0		£4	17	6	0	6	0
				0	6	0			
				5	3	6			
			Master,.....	0	13	2			
				5	16	8			
			Less,.....	1	14	0			
			Costs,.....	4	2	8			

15.—*Costs on making a submission to arbitration a rule of Court.*

			Affidavit of execution of bond, ...	0	5	0	0	0	0
			2nd do. do.	0	5	0	0	0	0
0	2	6	Letters for affidavit and return and paid ...	0	5	0	0	1	0
			Attending to move, ...	0	2	6	0	0	0
			Fee on motion, ...	0	10	0	0	0	0
			Paid for rule	0	0	0	0	3	2
			Fee on, ...	0	5	0	0	0	0
			Copy and service, ...	0	3	9	0	0	0
			Affidavit, ...	0	5	0	0	0	0
			Term fee, ...	0	5	0	0	0	0
			Bill of costs and copy for taxation, ...	0	5	0	0	0	0
			Copy for opposite party, ...	0	2	6	0	0	0
			Attending to tax, ...	0	2	6	0	0	0
			Notice of taxation, ...	0	2	6	0	0	0
0	2	6		£2	18	9	0	4	2
				0	4	2			
				3	2	11			
			Less,.....	0	2	6			
				3	0	5			
			Master, ...	0	3	4			
			Costs,.....	3	3	9			

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16.—*Costs of moving to enforce an award by attachment.*

£	s.	d.		FEES. £	s.	d.
0	5	0	Instructions, ...	0	10	0
0	7	6	Letters to D and E two of the parties, ...	0	5	0
			Attending to transmit, ...	0	2	6
0	5	0	Drawing power of attorney to demand money award, ...	0	5	0
0	2	6	Attending execution thereof, ...	0	2	6
0	15	0	Copies of power of attorney, 5s.; copies of award 10s.	0	15	0
			Copies of affidavit of execution, ...	0	5	0
			Attending to serve D, 2s. 6d.; do. E, 2s. 6d. ...	0	5	0
0	16	0	Service, 10s.; affidavit of service, 5s.; paid commissioner, 1s.	0	15	0
0	2	6	Attending to transmit to Toronto, 2s. 6d.; letter, 2s. 6d.	0	5	0
0	7	9	Postage, 1s. 3d.; instructions to serve, 5s.; mileage, 5s.	0	11	3
0	15	0	Fee on side bar rule, 10s.; paid, 5s. 4d.; term fee, 5s.	1	0	4
			Fee on rule, 5s.; copies and services, 7s. 6d. ...	0	12	6
			Copies of award, 10s.; attendance to serve and demand, 5s.	0	15	0
0	1	0	Affidavit of service, 5s.; paid commissioner, 1s. ...	0	6	0
0	1	0	Affidavit of A. B. of demand, 5s.; paid commissioner, 1s.	0	6	0
			Attending to transmit to Toronto, ...	0	2	6
0	2	6	Letter, 2s. 6d.; postage, 1s. 3d.; term fee, 5s. ...	0	8	9
			Michaelmas Term, 1856.			
0	15	0	Instruction for brief, 5s.; Brief, 10s.; fee on rule Nisi, 25s.	2	0	0
			Paid fee, 5s.; fee on, 5s.; copies rule, 7s. 6d. ...	0	17	6
			Attending to serve D, 2s. 6d.; do. E, 2s. 6d, ...	0	5	0
0	1	0	Affidavit of service, 5s.; paid commissioner, 1s.; term fee, 5s.	0	11	0
			Hilary Term, 1857.			
			Attending to transmit papers to Toronto, ...	0	2	6
0	2	6	Letter 2s. 6d.; postage, 1s. 3d.	0	3	9
0	10	0	Instructions to serve rule absolute	0	10	0
			Attending counsel, ...	0	2	6
0	2	6	Agents attending to receive papers	0	2	6
0	2	6	Attending court to move, ...	0	2	6
			Fee on motion, ...	1	5	0
			Attending for rule absolute, ...	0	2	6
			Paid for rule, 3s. 2d.; fee on do, 5s.	0	8	2
			Term fee, ...	0	5	0
			Drawing bill of costs, ...	0	5	0
0	2	6	Attending taxation, ...	0	5	0
5	16	9		£15	1	3
			Less, ...	5	16	9
				9	4	6
			Master, ...	0	3	8
				9	8	2

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17.—*Costs as between Attorney and Client (Defendant) to verdict inclusive, including a motion for a New Trial.*

£	s.	d.		FEES. £	s.	d.
5	0	0	Retainer.	5	0	0
			Attending to examine Writ, ...	0	1	3
			Appearance, ...	0	2	6
0	1	3	Attending to enter, ...	0	1	3
			Paid, ...	0	0	10
			Plea, ...	0	5	0
			Copies, ...	0	5	0
			Demand of replication, ...	0	2	6
			Attending to file and serve, ...	0	2	6
			Paid, ...	0	0	10
			Term Fee, ...	0	5	0
0	2	6	Notice	0	2	6
0	1	3	Attending to serve, ...	0	1	3
			Notice to Client of intention to examine, ...	0	2	6
			Attending for Subpœna, ...	0	1	3
			Paid, ...	0	2	6
			4 Notices, ...	0	8	0
			Attending Client with, ...	0	1	3
			Attending to see if record entered, ...	0	1	3
			Instructions for Brief, ...	0	5	0
			Brief, ...	0	10	0
			Copy for Counsel, ...	0	5	0
			Attending Counsel with, ...	0	1	3
0	5	0	Attending on day of trial, ...	0	5	0
2	10	0	Counsel fee, ...	5	0	0
0	5	0	Term fee, ...	0	5	0
			Attending for record, ...	0	1	3
			Attending to forward to Toronto, ...	0	1	3
0	1	0	Postage, ...	0	2	3
			Attending to send for Client, ...	0	1	0
			Paid horse hire, ...	0	10	0
0	1	3	Attending, ...	0	1	3
0	5	0	½ day's time of student, ...	0	5	0
			4 Affidavits, ...	0	10	0
			Paid, ...	0	4	0
			Brief, ...	0	5	0
0	2	6	Attending Court,...	0	2	6
			Motion, ...	0	10	0
			Paid for Rule, ...	0	2	6
0	3	6	Filing Affidavits,...	0	3	6
			Fee on Rule, ...	0	5	0
			Copy, ...	0	1	0
			Attending to serve, ...	0	1	3
0	5	0	Attending on return of rule Nisi, ...	0	5	0
			Fee on Argument, ...	2	10	0
0	10	0	Motion to make absolute, ...	0	10	0
0	1	3	Attending to hear judgment, ...	0	2	6
9	14	6	Carried over, ...	20	11	8

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£	s.	d.		FEES. £	s.	d.
9	14	6	Brought forward, ...	20	11	8
			Attending to advise, ...	0	1	3
			Term fees, ...	0	10	0
0	2	6	Bill and Copy, ...	0	7	6
2	10	0	Expenses in going to Toronto to move, ...	2	10	0
12	7	0		24	0	5
			Add (brief and motion)...	1	0	0
				25	0	5
			Master,.....	0	4	8
				25	5	1
			Less,.....	12	7	0
				12	18	1

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TAXATION OF COSTS.

GENERAL POINTS OF PRACTICE.

1. *General Principles of Taxation.*]—There are three modes of proceeding in the taxation of bills of costs. The *first* mode is strictly and simply as between party and party. The *second*, is between party and party, when the costs are taxed as between attorney and client, that is to say, when the *opposite* party has to pay the amount allowed to the successful party. The *third*, is between attorney and client, when the *client* has to pay his attorney: (Dax's Practice, 26.) As a general principle it is desirable, in the taxation of costs, as much as possible to do away with the distinction between costs as between party and party and costs as between attorney and client: (*Cheshire* v. *Mumford*, 2 N. C. L. Rep. 746.) The distinction is the cause of much scandal to the profession, and often places an attorney in an extremely disagreeable position in the eyes of his own client—appearing to charge for matters already remunerated by the costs paid by the opposite party: (*Ib.* per Jervis, C. J.) The new rules in England from which our recent rules are taken, were not designed to be restrictive but rather enlarging in their effect as between party and party: (*Ib.*) Taxing costs and signing final judgment as between party and party are contemporaneous acts: (*Peirce* v. *Derry*, 4 Q. B. 635.) Entry of judgment is not final until the costs are taxed: (*Ib.*) The Court will not, on the application of either party, give any prospective directions to the Master as to taxation: (*Roe* v. *Cobham*, 6 Scott, 146; *Head* v. *Baldrey*, 8 A. & E. 605; *Merrick* v. *Walkley*, 5 Jur. 967.) Besides, the Court is always disposed to attend very much to that which passes before the Master, who has generally the best means of coming to a satisfactory conclusion upon mere matters of discretion. An undertaking to pay debt and costs means debt and taxed costs: (*Doe d. Evans* v. *Southall*, 2 Jur. 809.)

2. *Notice of Taxation or Appointment to Tax.*]—A party having a bill to tax may either himself appoint the time and serve notice upon the opposite party, or procure an appointment from the Master

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which must also be served. One day's notice of taxation is usual and all that is required: (R.G. T.T. 1856, No. 48.) So one appointment only is necessary: (*Ib.* No. 49.) Notice is not necessary in any case where the defendant has not appeared in person or by attorney, or by guardian in cases where an appearance by guardian is allowed: (*Ib.* No. 50; *Boulton* v. *Manning*, 5 Dowl. P. C. 769; *Pope* v. *Mann*, 2 M. & W. 881.) But notice will be necessary if defendant has done what is equivalent to appearing, as where he has assented to a Judge's order: (*Lloyd* v. *Kent*, 5 Dowl. P. C. 125.) A mere summons for time to plead when taken out is not, however, tantamount to appearance: (*Welch* v. *Vickery*, 15 M. & W. 59.) The omission to take out and serve an appointment, or to give notice of taxation, is not such an irregularity as entitles the opposite party to set aside the judgment: (*Ilderton* v. *Sill*, 2 C. B. 249; *Field* v. *Partridge*, 7 Ex. 689; *Taylor* v. *Murray*, 3 M. & W. 141; *Lloyd* v. *Kent*, 5 Dowl. P. C. 125; *Felton* v. *Conley*, 1 U. C. Prac. Rep. 319.) His remedy is a review of the taxation: (*Ib.*; see "Review of Taxation," *infra*, No. 13.) Where by the practice of the Court costs need not be taxed, it is unnecessary to give one day's notice: (*Griffiths* v. *Liversedge*, 2 Dowl. P.C. 143.) Where a party does not appear before the Master on receiving a notice of taxation, he may perhaps be precluded from objecting to the amount of items taxable in the *discretion* of the Master, but will not be precluded from objecting *in toto* to items upon the allowance of which the Master has no discretion at all: (*Conger* v. *McKechnie*, 1 U. C. Cham. R. 209.) As to the latter items a review may be had: see "Review of Taxation," *infra*, No. 13.

3. *Duty and Discretion of Master.*]—The Master must take notice of the various statutes and rules regulating costs: (Gray's Costs, 495.) In taxing between party and party, he will allow the costs of all regular and necessary proceedings in the cause: (*Ib.*) He will also allow all such incidental costs as are or are directed to be costs in the cause: (*Ib.*) Even where interlocutory costs are independent of the verdict, the Courts will not allow distinct taxations: (*Ib.*) The party who substantially succeeds on a rule which forms part of the regular proceedings in the cause, no mention of costs being made, will be entitled, if he also succeed in the cause, to have the costs of

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the rule allowed him as costs in the cause: (*Ib.* p. 496); but not so if the rule be only collateral to the cause: (*Mummery* v. *Campbell*, 2 Dowl. P. C. 798.) The discretion of the Master as to the expenses of evidence and witnesses generally is almost unlimited: (see "Witnesses," *infra*, No. 8.) So with regard to fees to counsel, the Master exercises a discretion regulated to a certain degree by the nature and magnitude of the cause: (see "Preparation of Briefs," *infra*, No. 11.)

4. *Proceedings before issue of First Process.*]—In general no costs of proceedings before action are allowed on a taxation between party and party: (Gray on Costs, p. 497.) The costs of an abortive reference not made a rule of Court are not costs in the cause: (*Doe d. Davies* v. *Morgan*, 4 M. & W. 171.) Where there is only one defendant, the costs of one letter only previous to the issuing of summons is allowed though more were actually sent: (*Capel* v. *Staines*, 5 Dowl. P. C. 770.) Where notice of action is necessary, the Court will not interfere with the discretion of the Master as to the amount of costs allowed by him for such notice: (*Kent* v. *Great Western R. Co*, 4 D. & L. 481.) Where the notice of action was very voluminous and greatly increased the costs, though necessary to enable the plaintiff to bring the action, the Court disallowed the costs of it: (*Edwards* v. *Great Western R. Co.*, 12 C.B. 419.) The general rule is that nothing shall be allowed which properly concerns the preparation for the bringing of an action or the acquisition of the knowledge necessary to enable a plaintiff to give notice of action: (*Ib.* per Jervis, C.J.) Maps, plans, surveys are sometimes allowed, but not the expense of obtaining the information necessary to enable a surveyor to prepare them; (*Holmes* v. *Holmes*, 2 Bing. 75; *Pilgrim* v. *Southampton & Dorchester R. Co*, 8 C.B. 25; *Edwards* v. *G. W. R. Co*, per Maule, J. *ubi supra*; see also "Preparation of Briefs," &c., *infra*, No. 11.) The expenses of a person sent to inquire after the subscribing witnesses to a bond were disallowed on taxation between party and party: (*Laing* v. *Bowes*, 3 M. & S. 89.) These and such like when chargeable may be taxed as between attorney and client: (Merrifield on Costs, 175.)

5. *First Process.*]—One writ only is necessary for the commencement of an action: (C.L.P.A. 1856, s. 16; app. Co. C.) Several may, how-

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ever, be issued, but if issued defendant will only be liable to the costs of the particular writ served upon him, or if bailable under which he is arrested: (*Dunn* v. *Harding*, 2 Dowl. P. C. 803.) So if there be several defendants, and for the sake of speed or convenience plaintiff issue several concurrent writs, each defendant will be liable only to the costs of the writ served or executed upon him individually: (*Angus* v. *Coppard et al*, 3 M. & W. 57; *Crow* v. *Crow*, 1 D. & L. 709.) In an action for the payment of a debt, it is enacted that upon the writ and copy served or executed, the amount of the debt shall be stated and the amount of what the plaintiff's attorney claims for the costs of such writ, copy, and service and attendance, to receive the debt and costs: (C. L. P. A. 1856, s. 26; app. to Co. C.) It must further be stated that upon payment thereof within eight days to the plaintiff or his attorney, further proceedings will be stayed: (*Ib.*) The object of the indorsement is to show the defendant in express terms what the plaintiff is contented to take, in order tha, the former may tender it together with the costs within the time limited: (*Chapman* v. *Becke*, 3 D. & L. 350.) Though the costs be understated, it is apprehended that if the amount stated be tendered within the eight days, the attorney must still accept the same. It has been held that defendant may have the costs taxed, though he pay less than the sum endorsed: (*Hunter* v. *Russell*, 5 M. & G. 601; *sed qu*, see *Young* v. *Crompton*, 2 D. & L. 557.) The debt and costs indorsed on a writ of summons were received by a clerk of plaintiff's attorney after the expiration of the time limited, and the attorney not having offered to return the money was prevented from going on with the action to recover further costs: (*Hodding* v. *Sturchfield*, 7 M. & G. 957.) The defendant notwithatanding payment may have the costs taxed, and if more than one-sixth be disallowed, the plaintiff's attorney must pay the costs of taxation: (C. L. P. A, 1856, s. 26; applied to County Courts.) It does not necessarily follow that the defendant is to pay the costs of taxation though *less* than one-sixth be taken off: (see note *m* to s. xxvi. of Har. C. L. P. A. 1856.) The Court has a discretion which it may exercise according to the reasonableness or unreasonableness of the charges in the bill, whether it will make the defendant pay the costs or not: (*Ib.*)

6. *Pleadings.*]—The plaintiff in any action may with leave plead

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in answer to a plea or subsequent pleading of a defendant as many several matters as he shall think necessary to sustain his action. (C. L. P. A., 1856, s. 130, applied to County Courts.) So may a defendant with leave, in answer to a declaration or other subsequent pleading of plaintiff, plead as many several matters as he shall think necessary for his defence. (*Ib.*) The costs, however, of any issue either of fact or of law follow the finding or judgment on such issue, and are adjudged to the successful party whatever be the result of the other issue or issues. (*Ib.*) Although a defendant by pleading unnecessary pleas may subject himself to the costs of the issues raised on these pleas, yet if he obtain a verdict on an issue raised by a plea, which is an unqualified bar to the action, and which, if pleaded alone, would clearly entitle him to the general costs of the trial, the postea and general costs of the cause may be adjudged to him. (*Ragg* v. *Wells*, 8 Taunt, 129; *Edwards* v. *Bethel*, 1 B. & A., 254.) But although one party succeed on the general question, if he have put his opponent to unnecessary expense by pleading that which in law or fact turns out to be unfounded, it is clear he must make good such expense. (*Spencer* v. *Hamerton*, 4 A. & E., 413; *Mullins* v. *Scott*, 5 Bing. N. C. 423; *Hart* v. *Cutbush*, 2 Dowl., P. C. 456.) The party offending is not only bound to pay the costs of the unnecessary pleadings, but the costs of the preparation of evidence on those pleadings (*Spencer* v. *Hamerton*, *ubi sup.*; *Empson* v. *Fairfax*, 8 A. & E. 296.) And in general all other costs incurred by reason of such unnecessary pleadings. (*Hart* v. *Cutbush*, 2 Dowl. P. C. 456; *Bird* v. *Higginson*, 5 A. & E. 83; *Eyre* v. *Thorpe*, 6 Dowl. P. C. 768.) If the Judge certify in favor of such party, under the 4 Anne c. 16, s. 5, he need not pay any such costs. (*Fry* v. *Monckton*, 9 Dowl. P. C. 967.) Where there are issues in law as well as of fact, the issues of fact going to the whole cause of action and judgment is given for plaintiff on the demurrer, but at the trial the plaintiff is non-suited: (*Greenhow* v. *Isley*, Barnes, 136,) or the defendant has a verdict upon the issues of fact: (*Duberley* v. *Page*, 2 T. R. 391), although the defendant is entitled to judgment on the whole record, plaintiff is entitled to his costs of the demurrer. Where several pleas are pleaded, and one of them, which amounts to an answer to the whole cause of action, is found for the defendant and others for the plaintiff, the latter is entitled to the

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costs of the issues found for him, including a portion of the briefs and counsel fees : (*Hazlewood* v. *Back*, 9 M. & W. 1.) But where the costs of an issue found for the defendant will manifestly exceed the costs of the issues found for the plaintiff the plaintiff is not entitled to retain the postea in his possession : (*Staley* v. *Lony*, 5 Dowl., P.C. 616), and the court, on application of defendant, may order plaintiff to redeliver the postea to the proper officer for the purpose of proceeding to taxation. (*Ib.*) Though the defendant succeed on a plea which goes to the whole declaration he is not entitled to the costs of any issues on which the jury has been discharged, (*Vallance* v. *Evans*, 1 C. & M. 856. A party is not necessarily disentitled to the costs of witnesses called in support of an issue on which he succeeds because their testimony may in a slight degree be applicable to an issue upon which he has failed. The true question is for what purpose were they called? (*Jewell* v. *Parr*, 17 C. B. 636.) Upon an arrest of judgment or judgment non obstante veredicto the Court shall adjudge to the party against whom such judgment is given, the costs occasioned by the trial of any issues of fact arising out of the pleading, for the defect of which such judgment is given upon which such party shall have succeeded, (C.L.P.A. 1856, s. 219; applied to County Courts.) Such costs shall be set off against any money or costs adjudged to the opposite party, and execution issued for the balance only, if any. (*Ib.*) So, if an issue, single in point of form be divisable, so that it may be found partly for the plaintiff and partly for the defendant, the costs must be taxed in the same manner as if the findings were on distinct issues : (*Prudhomme* v. *Fraser*, 2 A. & E. 645 ; *Routledge* v. *Abbott*, 8 A. & E. 592 ; *Ward* v. *Bell*, 2 Dowl. P. C. 76 ; *Doe d. Errington* v. *Errington*, 4 Dowl. P.C. 602 ; also s. 124 of C. L. P. A. 1856, applied to County Courts.)

7. *Proceedings at and subsequent to the Trial.*]—The Master in taxing costs down to the Nisi Prius record, is guided by the record and the papers filed. For the costs of the trial, including the evidence, subpœnas, &c., he is guided generally by an affidavit of increase, commonly called an affidavit of disbursements. This affidavit must state that the witnesses have been in fact paid : (*Freeman* v. *Rosher*, 6 D. & L. 517.) It is a culpable practice for an attorney to state that he has made payments which in fact he has not made, or to increase

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charges unduly, whether for the purpose of benefiting himself as the attorney, obtaining popularity with others, or oppressing the adverse party: (*Doe d. Mence et al.* v. *Hadley*, 17 Q.B. 571.) Such conduct is an offence which renders the attorney liable to be punished by the Court: (*Ib.*) The Court may go so far as to order the party to refund such moneys: (*Trent* v. *Harrison*, 2 D. & L. 941; see "Review of Taxation," *infra*, No. 13.) On the defendant's taxation of costs of issues on which he has succeeded, an affidavit that the witnesses whose expenses he claims were called exclusively to support those issues is not indispensable, provided the Master be satisfied of the fact by other means: (*Pilgrim* v. *Southampton R. Co.*, 8 C.B. 25.) The Master exercises a large discretion in taxing the costs of evidence and witnesses, according to the importance of the case. In general he allows costs of trial of that evidence only which bears on the matter at issue between the parties and was material: (*Delisser* v. *Towne*, 1 Q. B. 333.) Where there is a plea in bar to the declaration which is found for defendant, he is not entitled to the expenses of witnesses who have been subpœnaed only for the purpose of giving evidence in reduction of damages: (*Hodgkinson* v. *Wyatt*, 1 D. & L. 668.)

8. *Witnesses.*]—The Master ought not to allow for the expenses of witnesses a greater amount than is *reasonable*, though it do not equal "one shilling per mile one way," the maximum fixed by the tariff, and though it have been actually paid by the party bringing them: (*Hunter* v. *Liddell*, 16 Q. B. 402.) The tariff reads thus, "the travelling expenses of witnesses over ten miles shall be allowed according to the sums reasonably *and* actually paid, but in no case shall exceed one shilling per mile one way." The meaning of the tariff is clear. The taxing officers are to inquire what *expenses* are actually incurred, and to allow those if they do not exceed 1s. a mile; but it is not meant that they are to permit the successful party to pay his witnesses 1s. a mile whatever be the expense, and have that payment allowed in costs, so as to make the maximum prescribed a minimum. The expenses of witnesses called by the successful party must be borne by the unsuccessful party, but it is only the reasonable expenses. To lay down a rule by which the successful party could always make the unsuccessful party pay 1s. a mile for expenses, though the witnesses could and did come to the trial for much less

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than 1s., would be unreasonable: (*Hunter* v. *Liddell*, per Campbell, C. J, 16 Q. B. 402.) But mileage is not the only expense. There are expenses to be allowed for the attendance of witnesses. This item varies according to the profession of the witness and the nature of his evidence. No witness can in general be allowed for attendance before the day appointed for opening the Court: (*Braun* v. *Mollett*, 16 C. B. 514.) A witness who does not arrive until half-past ten of the evening of the day on which the cause is tried, cannot be allowed his expenses: (*Fryer* v. *Sturt*, 16 C. B. 218.) Where a cause is over at three o'clock, the witnesses may reasonably be allowed the following day to return home, though living only fifty miles off and accessible by railway trains the same evening: (*Ib.*) The contingent losses which witnesses may have suffered by obeying the subpœna cannot be allowed: (*Thellusson* v. *Staples*, 2 Doug. 438.) The professional witnesses who are entitled to a rate greater than ordinary witnesses "when called upon to give evidence in consequence of any professional service rendered by them," are barristers, attorneys, physicians, surgeons, engineers, and surveyors: (see Tariff.) The allowance to them is one pound per diem. A broker is not within the rule: (*Lopes* v. *De Tastet*, 3 B. & B. 292.) It is a question for the discretion of the Master whether a witness ought to be allowed for the whole time of his attendance or only a portion of it: (*Platt* v. *Greene*, 2 Dowl. P. C. 216.) It is also a question for the discretion of the Master in each particular case, whether the expenses of witnesses brought from abroad who might be examined on interrogatories should be allowed: (*McAlpine* v. *Coles*, 2 Dowl. P. C. 299.) Reasonable allowance may be made for the loss of time of a necessary witness who is not accessible to subpœna, and who will not attend without compensation: (*Lonergan* v. *Royal Exchange Insurance Co.* 1 Dowl. P. C. 233.) The cost of bringing such a witness into the country may also in the discretion of the Master be allowed: (*Cotton* v. *Witt*, 4 Taunt. 55); although it was at one time thought that the costs were only to be allowed from the time that the witness came within the jurisdiction of the Court: (*Hagerdon* v. *Allnutt*, 3 Taunt, 379.) But if the witness be brought to give evidence in one action which is discontinued, and the plaintiff call him in another action against a different defendant, though arising out of the same transaction, he is entitled only in the second action to the cost of the witness's subsistence and

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detention for the purpose of the second action but not of his travel to this country or of his return to his own country : (*Tremain* v. *Barrett; Tremain* v. *Faith*, 6 Taunt. 88.) A witness who is *bona fide* detained in this country for the purpose of a trial may be entitled to the expenses of his maintenance during the time he is so detained : (*Ansett* v. *Marshall*, 22 L. J. Q. B. 118.) The Master, however, must clearly see that the witness was *bona fide* detained with reference to the cause, and be of opinion from all the circumstances of the case that the detention was *reasonable:* (*Ib.*) And the Court, if the Master do allow a certain sum per day for the detention, will not interfere to increase or decrease it : (*Stewart* v. *Steele*, 4 M. & G. 669.) Where a trial was postponed, plaintiff, who afterwards succeeded in the action was under peculiar circumstances held entitled to the costs of detaining a material witness, a captain of a vessel, for three hundred days : (*Evans* v. *Watson*, 4 D. & L. 193.) Either party to a cause if notified to attend by his opponent is, it seems, entitled to the expenses of attending and being examined as a witness : (see *Dowdell* v. *Australian Royal Mail Co*, 3 El. & B. 902 ; *Howes* v. *Barber*, 18 Q. B. 588.) The Master is the sole judge of the proper number of witnesses to be allowed in support of the same matters : (*Pilgrim* v. *Southampton & Dorchester R. Co*, 8 C. B. 25.) If a female having an infant by obliged to take the infant with her, an allowance may be made for the expenses of both : (*Dixon* v. *Lee*, 3 Dowl. P. C. 259.) In case of amendments in the record whereby witnesses who have been subpœnaed are rendered unnecessary, due diligence must be used to countermand their attendance, otherwise such witnesses will be paid : (*Allport* v. *Baldwin*, 2 Dowl. P. C. 599.) Where a defendant having obtained a rule to change the venue the plaintiff, on payment of costs, withdrew his record, and on defendant abandoning his rule the cause was afterwards tried, and the plaintiff succeeded, he was held not to be entitled as costs in the cause, to the costs of witnesses on their way at the time the rule to change the venue was obtained : (*Pugh* v. *Kerr*, 6 M. & W. 17.) Witnesses may be subpœnaed immediately on notice of trial being given : (*Lonergan* v. *Royal Exchange Assurance Co*, 1 Dowl. P. C. 223) ; but it is not absolutely necessary that a witness should be subpœnaed in order to entitle him to the usual allowance. It is sufficient if he attend on request or notice : (Dax on Costs, 31.)

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Where the witness is material, his expenses may be allowed, if paid though he was subpœnaed and paid by the opposite party: (*Benson* v. *Schneider*, 7 Taunt. 337); or not called at the trial; (*Miller* v. *Thomson*, 4 M. & G. 260.) But if his evidence be rejected by the Judge as inadmissible no expenses can be in general allowed: (*Galloway* v. *Keyworth*, 15 C. B. 228; *Bagnall* v. *Underwood*, 11 Price 511.) Where an attorney's clerk negligently lost the bill of exchange on which the action was brought, and plaintiff was obliged to call witnesses to give secondary evidence, the Court was equally divided as to whether the Master properly allowed the plaintiff who obtained the verdict the costs of those witnesses: (*Matthews* v. *Livesley*, 11 Ex. 221.) The circumstance of witnesses not having been called at the trial is no ground for disallowing their expenses, provided the Master be satisfied that the attendance was reasonably necessary: (*Morrison* v. *Harmer*, 5 Scott 410.) The charges allowed for the attendance and expenses of witnesses must depend on the facts of each case: (*Bagnall* v. *Underwood*, 11 Price 511.) The Court will not direct the Master to review his taxation because he has allowed the expenses of witnesses that were not called: (*Adamson* v. *Noel*, 2 Chit. 200.) In an action on a promissory note, the defendant having pleaded fraud, the plaintiff subpœnaed a witness to disprove the fraud, but the defendant having failed to make out a *prima facie* case of fraud, the witness though not called was held entitled to his expenses: (*Miller* v. *Thompson*, 4 M. & G. 260; see also *Paddock* v. *Forrester*, 2 Dowl. N. S. 125; *Fisher* v. *Berrell*, 1 Dowl. N. S. 565.) Witnesses are entitled to the full allowance for attendance in one cause only. If they attend in more than one they will be entitled to a proportionate rate in each cause only: (see Tariff.) A plaintiff having, in England, been brought up by *habeas corpus* upon his own behalf to give evidence in one cause when attending Court, gave evidence in another cause against the same defendant, and having succeeded in the first, and failed in the second cause, it was held that on taxation of the costs of the first cause he was entitled only to one moiety of the costs of the *habeas corpus*: (*Griffin* v. *Hoskyns*, 2 Jur. N. S. 475.)

9. *After Application or Notice to Admit.*]—Either party may by notice call upon the other party to admit *any* document, and in case of refusal or neglect to admit the costs of proving the document shall

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be paid by the party so refusing whatever be the result of the cause, unless at the trial the judge certify that the refusal to admit was reasonable; (C. L. P. A. 1856, s. 165, applied to County Courts.) No costs of proving *any* document shall be allowed *unless such notice* be given except in cases where the taxing officer is of opinion that the omission to give the notice is a saving of expense: (*Ib.*) A party proposing to give documentary evidence at a trial is bound in every case to give a notice to admit, even although the genuineness of the documents is put in issue by the pleadings (*Spencer* v. *Barough*, 9 M. & W. 425.) He is equally bound to serve such notice, notwithstanding an intimation from the opposite party that no such admission would be made: (*Ib.*) A party refused to admit the handwriting of a third person to a document, the judge under the old practice made the usual order for the costs of proving it at the trial, the hand-writing was proved; but as the document itself was one which was not admissible in evidence, the judge at Nisi Prius refused to certify for the costs of proving it: (*Phillips* v. *Harris*, Car. &. M. 492.) Where on a trial the counsel of the party refusing admitted documents, in consequence of which no proof was given, and the judge did not certify it was held that the master was right in refusing to allow the expenses of the witnesses subpœned to prove such documents: (*Freeman* v. *Rosher*, 6 D. & L. 517.) In an action by a carrier against a Railway Company to recover back exorbitant and unequal charges, made upon him for the conveyance of goods on their line, a verdict having been found against the Company, the master on taxation disallowed a charge of £566 13s. 4d., for a voluminous notice to admit setting forth descriptions of upwards of 21,000 tickets and receipts for goods carried by the Company for the plaintiff, and moneys paid on account, in respect of which the overcharge arose, it was held that the master had exercised a sound discretion in doing so, the notice, though apparently in strict compliance with, being virtually in fraud of the then existing rule of Court: (*Edwards* v. *The Great Western Railway Company*, 12 C.B. 419.) The costs incurred by a party neglecting or refusing to admit documents after notice cannot be taxed before the general taxation of costs in the cause: (*Lewis* v. *Howell*, 6 A. & E. 769.) Where a defendant, after serving notice to admit, duly proved the document in question, and was entitled to the costs thereof, and the plaintiff

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was non-suited, but obtained a rule to set the non-suit aside, the Court refused to allow the defendants costs of proof to be taxed, pending the rule as they ought to be set off against plaintiff's costs, in case of his ultimately succeeding: (*Doe d. Davies* v. *Davies*, 12 A. & E. 21.)

10. *Preparation of Evidence and preliminary experiments.*]—One party must not cast upon his opponent the expense of putting a man in the situation of acquiring knowledge to make him a witness in the cause. The costs of qualifying witnesses to give evidence, or of informing their minds for that purpose, are never allowed in taxation between party and party. Thus the cost of experiments made by scientific men (*Severn* v. *Olive*, 3 B. & B. 72) of surveying and taking levels as to a wrongful act done: (*Ormerod* v. *Thompson*, 16 M. & W. 860) of journeys and inquiries to prove that the plans and surveys, for which the plaintiff or surveyor sued, were badly made (*Groatt* v. *Attwood*, 21 L. J. Q. B. 215) of obtaining and analysing specimens of earth to meet an action in the case for injuring a water-course by depositing noxious materials: (*Lumb* v. *Simpson*, 4 Ex. 86) of taking a witness to view a defendent with the object of identifying the latter as a trespasser: (*Small* v. *Batho*, 21 L. J. Q. B. 254) of viewing premises in an action for negligence between an outgoing and incoming tenant: (*May* v. *Selby*, 4 M. & G. 142.) Expenses of successful searches for pedigree have been allowed: (*Johnson* v. *Lawson*, 2 Bing. 341.)

11. *Preparation of Briefs and other preparations for Trial.*]—Plans, models, &c., generally useful to aid the Court and jury in coming to a right conclusion, are not to be looked upon in the same light as surveys or experiments made by scientific persons in order to qualify themselves to give evidence: (*Pilgrim* v. *Southampton and Dorchester*, R. Co. 8 C. B. 25.) The expenses thereof may, in the discretion of the master, be allowed: (*Ib.*) Even if the work done, be it of whatever kind, be not intended for the use of the Court and jury but rather for counsel, if it display great skill and labor, (such as analysing the depositions of a criminal prosecution,) the remuneration in respect of such work should, it would seem, be in accordance with the skill and labor bestowed, and not be regulated by mere

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measurement: (*Re Marshall*, 29 L. T. Rep. 159.) The discretion of the master as to allowing more or less for a brief, or as to allowing two or three briefs to the same number of counsel, is not in general much fettered: (*Sharp* v. *Ashby*, 12 M. & W. 732; but see Tariff title "Briefs.") Where two or more plaintiffs sue by one attorney for separate damage to each from the writ of defendant, each is entitled to the costs of drawing the brief in his case, though each brief contain the same pleading and statement of facts: (*Oppenshaw* v. *Whitehead*, 9 Ex. 384.) The allowance or disallowance of copies of documents to accompany the briefs is a matter for the discretion of the master: (*May* v. *Tarn*, 12 M. & W. 730; *Stewart* v. *Steele*, 4 C. B. 460.) Short-hand writers notes cannot ordinarily and without consent be allowed: (*Croomes* v. *Gore*, 25 L. J. Ex. 267.) At an arbitration that lasted several days the successful party had only one counsel, and employed a short-hand writer to take down the evidence, and after each meeting a transcript of his notes were made and a copy furnished to counsel for his guidance at subsequent meetings, held that the expenses of the short-hand writer, the transcripts and the copies ought not to be allowed in taxation of costs between party and party, although the expenses of a second counsel, or of a copy of the notes of the evidence, if taken by an attorney's clerk, might have been allowed: (*Ib.*) Although as a general principle it is desirable in the taxation of costs as much as possible to do away with the distinction of costs between party and party, and costs as between attorney and client, it is impossible wholly so to do: (*Cheshire* v. *Mumford*, 2 N. C. L Rep. 746.) For example, in taxing costs of preparing for trial a retaining fee for one counsel only may be properly allowed as between party and party, a retainer for another can only, as a fee for special retainer, be allowed as between attorney and client: (*Ib.*) As a general rule in taxing costs of preparing for trial the costs of advice on the evidence ought to be allowed between party and party: (*Ib.*)

12. *Several Defendants.*—Where there are several Defendants who defend separately and obtain a verdict, generally the costs of all need not be taxed at the same time: (*Brueford* v. *Griffin*, 6 Ex. 461.) One of two defendants, after appearing and pleading jointly two days before the trial, obtained an order to appoint a separate attorney for himself. On taxation the master allowed him separate

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the party applying first to pay into Court the amount of items in costs of the trial. It appeared that the defendant had reasonable grounds for changing his attorney. The Court refused to interfere with the master's discretion: (*Rolfe* v. *Johnson*, 6 M. & G. 759.) Two defendants who pleaded separately were represented by different counsel, although by the same attorney, were held entitled to present for taxation separate lists of costs, on a rule nisi for a new trial which had been obtained by plaintiff, and discharged with costs: (*Newton* v. *Boodle*, 4 C. B. 359.) In an action against several defendants who had pleaded the plaintiff obtained an order to strike out the names of some of the defendants on payment of costs, the defendants, whose names remained, having liberty to plead de novo. The master allowed the defendants who remained the costs of the day only. The latter defendants subsequently pleaded paying money into Court, which was accepted, and the master taxed the plaintiff his costs, not allowing him the costs incurred subsequently to the former pleas. The successive taxations by the master were held to be right. The defendants were held to be further entitled to the costs of the former pleas: (*Jackson* v. *Nunn*, 4 Q. B. 209.) Where judgment against two defendants A. & B. in a joint action of contract against both is set aside for irregularity, at the instance of the defendant A only, with costs, and the costs are paid to the other defendant B, such payment is no answer to the demand of A upon the master's allocatur: (*Showler* v. *Stoakes*, 2 D. & L. 2.)

13. *Review of Taxation.*]—Where a wrong principle is acted upon by the Master in the taxation of costs, the course of the party objecting is to apply to a Judge for a summons to show cause why the Master should not review his taxation: (*Sellman* v. *Boorn*, 8 M. & W. 552; *Cleaver* v. *Hargrave*, 2 Dowl. P. C. 689.) A Judge is, however, slow to interfere, especially in matters relating to witnesses and evidence, which necessarily require a liberal exercise of discretion on a view of all the proceedings: (*Rennie* v. *Mills*, 5 Bing. N. C. 249.) The Judge will generally refuse to interfere unless it be clear the Master has come to a wrong conclusion: (*Ib.*) The application for review ought not to be made before the Master has made his allocatur, as he has not until doing so finally decided what costs he will allow: (*Sellman* v. *Boorn*, *ubi supra.*) It is not necessary for

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the bill of costs to which no objection is made: (*Bagnall* v. *Underwood*, 11 Price, 511.) The Judge will not grant a review upon a ground not specifically presented before the Master: (*Hore* v. *Saxl*, 17 C. B. 599.) In England the Courts will not order a review of taxation in cases where the amount alleged to have been improperly allowed is less than 40s.: (*Newton* v. *Boodle*, 4 C. B. 359.) No such principle has been established in this country, and in one case a Judge in Chambers refused to make a precedent for it: (*Conger* v. *McKechnie*, 1 U. C. Cham. Rep. 209.) Objectionable items may be sufficiently shown by taking the bill of costs and affidavit upon which the review is asked together: (*Ib.*) The Master having upon taxation of the plaintiff's costs been induced by false affidavits to allow a large sum as the fees and expenses to commissioners named in a commission for the examination of witnesses, which it was suggested, had not been paid, the Court referred it back to the Master, to inquire by such means as he should think fit, what sums had actually been paid, and to review the taxation if necessary: (*Barnes* v. *Attwood*, 5 C. B. 164.) The costs of an unsuccessful application to review do not necessarily follow the general costs of the cause: (*Bartholomew* v. *Carter*, 4 M. & G. 612.) No costs are allowed upon a rule made absolute for review: (*Miller* v. *Thomson*, 4 M. & G. 260.)

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Venire to a County Court Suit

Therefore the Sheriff is Commanded that he Cause to Come Before George Stephen Jarvis Esquire Judge of our said Court at the next sitting thereof for trials and assessments at the Court House, in the town of Cornwall in the said United Counties on Tuesday the day of in the Year of our Lord one Thousand Eight hundred and (fifty Seven) a jury to try the said issue (or assess the damages as the Case may be.)

Vid 12 Vic. Cap. ~~IX~~ 66. IX.

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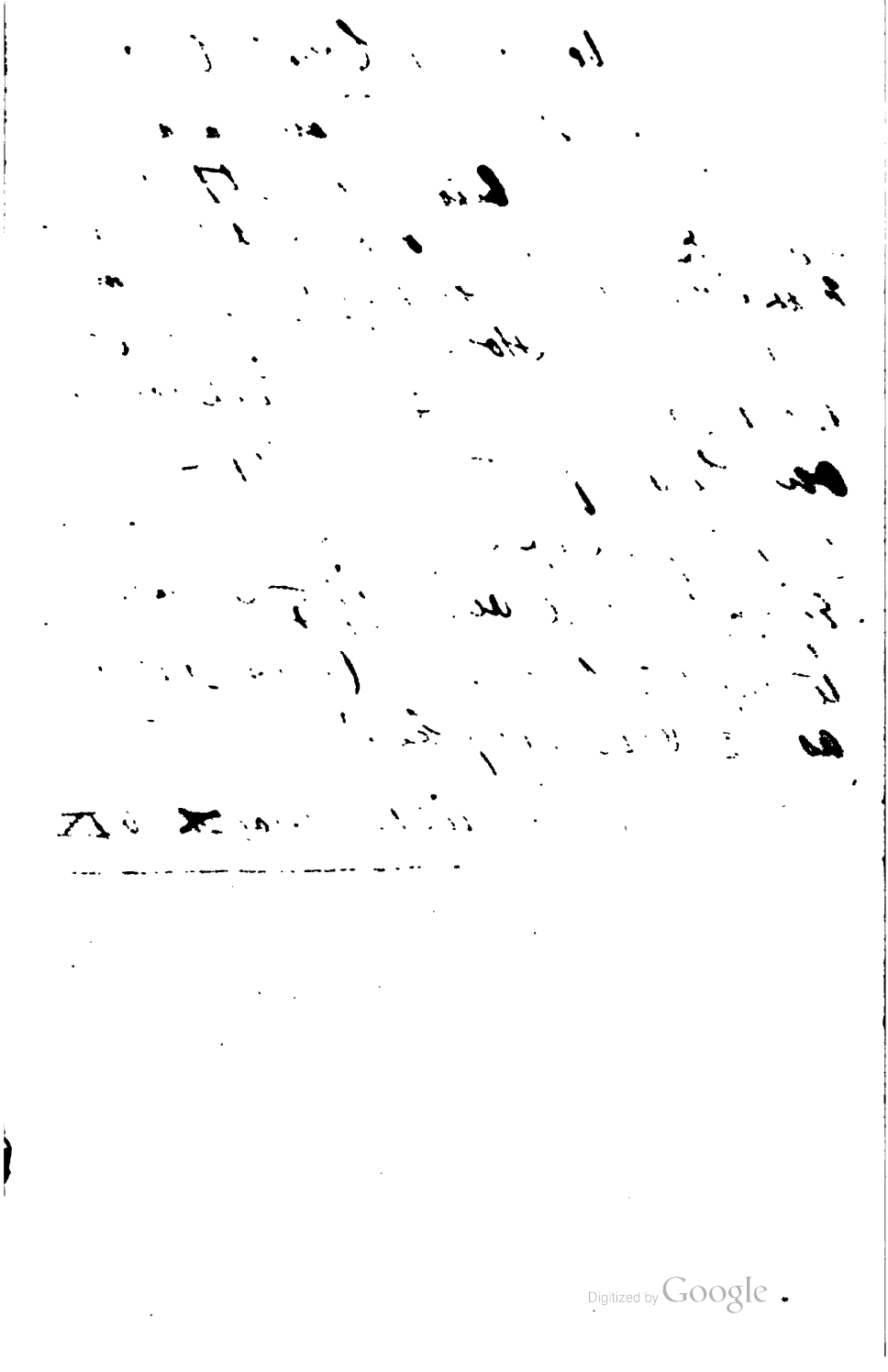

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